



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Eighteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH

and

The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) Nos.7394,7395 of 2017

IN

CRL A(MD) No.306 of 2016

DASS @ GANESAN

... PETITIONER/APPELLANT/ACCUSED NO.2
IN CRL MP(MD) No.7394 of 2017

ARUMUGAM

... PETITIONER/APPELLANT/ACCUSED NO.1
IN CRL MP(MD) No.7395 of 2017

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
SILAIMAN POLICE STATION,
IN CRIME NO.338 OF 2010,
MADURAI DISTRICT

... RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

Prayer in CRL MP(MD) . 7394/ 2017 :

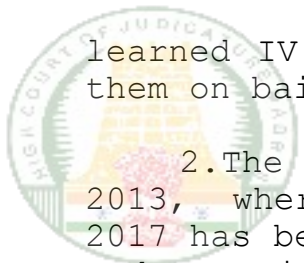
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner/Appellant/Accused in S.C.No.88 of 2013 dated 12.08.2016 on the file of the learned IV Additional Sessions Judge, Madurai and enlarge him on bail pending disposal of the appeal

Prayer in CRL MP(MD) . 7395/ 2017 :

To Suspend the sentence imposed on the petitioner/Appellant/Accused in S.C.No. 88 of 2013 dated 12.08.2016 to the file of the learned IV Additional Sessions Judge, Madurai and enlarge him on bail pending disposal of the appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.SAMUELJAMESDEVASAGAYAM, Advocate for the petitioner in both petitions and of MR.R.RAMACHANDRAN, Additional Public Prosecutor on behalf of the Respondent in both petitions the court made the following order:-

(Order of the Court was made by **M.M. SUNDRESH.J.,**)



learned IV Additional Sessions Judge, Madurai and also to enlarge them on bail.

2.The petitioners are the accused Nos.1 & 2 in S.C.No.88 of 2013, wherein the first accused/petitioner in CrI.M.P(MD)No.7395 of 2017 has been found guilty under Section 302 of IPC and sentenced to undergo Life Imprisonment and also imposed a fine of Rs.2,000/- in default to undergo three months Simple Imprisonment and he has been found guilty under Section 201 of IPC and sentenced to undergo seven years Rigorous Imprisonment and also imposed a fine of Rs.2,000/- in default to undergo three months Simple Imprisonment and second accused/petitioner in CrI.M.P(MD)No.7394 of 2017 has been found guilty under Section 302 r/w 34 of IPC and sentenced to undergo Life Imprisonment and also imposed a fine of Rs.2,000/- in default to undergo three months Simple Imprisonment. Under the said circumstances, the present petitions have been filed seeking suspension of the sentence awarded.

3.The case of the prosecution is that the date of occurrence was on 19.10.2010 and the accused No.1 was having illicit relationship with A4, as it was questioned by the deceased being the husband of A4, the first accused with the help of others committed the offence.

4.The learned counsel appearing for the petitioners would submit that it is a case of circumstantial evidence. Except the recovery there is no material to implicate the petitioners. These petitioners are concerned, even prosecution witnesses did not speak clearly about the involvement.

5.The learned Additional Public Prosecutor would submit that the recovery having been proved by the prosecution and the trial Court has rightly convicted the accused and no interference is required and therefore, the present petition will have to be dismissed.

6.As submitted by the learned counsel for the petitioners, it is a case of circumstantial evidence. Apart from recovery under Section 27 of Indian Evidence Act, there are no other witnesses available to speak about the involvement of the petitioners.

7.Considering the above facts and taking note of the fact that there are some arguable points are involved in this criminal appeal and considering the period of incarceration undergone by them, we are inclined to grant suspension of the sentence.

8. In fine, this petition is ordered and the sentence imposed against the petitioners in S.C.No.88 of 2013 by the learned IV Additional Sessions Judge, Madurai is alone suspended till the disposal of Criminal Appeal No.306 of 2016 and the petitioners will be released on bail on executing a bond for a sum of Rs.10,000/- each and two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Madurai and on further condition that the petitioners shall appear before the said Court on the first



working day of every English Calendar month at 10.30 a.m until further orders.

sd/-
18/09/2017

/ TRUE COPY /

WEB COPY

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE IV ADDITIONAL SESSION JUDGE, MADURAI.
 - 2 THE JUDICIAL MAGISTRATE NO.II, MADURAI.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
 - 4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 5 THE INSPECTOR OF POLICE,
SILAIMAN POLICE STATION, MADURAI DISTRICT
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.S.SAMUELJAMESDEVASAGAYAM Advocate SR.No.30862

ORDER IN
CRL MP(MD) Nos.7394,7395 of 2017
IN CRL A(MD) No.306 of 2016
Date :18/09/2017

MKV-PM-PN-SAR 4/19.09.2017/3P-8C