



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

Tuesday, the Fourteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice R.SUBBIAH

and

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL MP (MD) No.8303 of 2017

IN

CRL A (MD) No.360 of 2017

SIVAKUMAR @ KARI

... APPELLANT/ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
PALANI TALUKA POLICE STATION,
PALANI. (IN CRIME NO.284/2011)

... RESPONDENT/COMPLAINANT

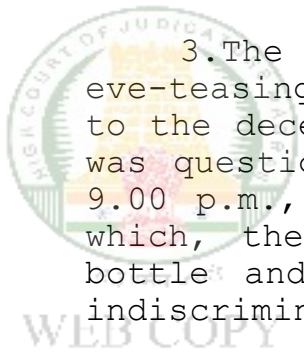
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release the Appellant/Accused on Bail pending disposal of the Criminal Appeal before this Honourable Court against the Judgement in Sessions Case No.82/2012 dated 17/04/2014 on the file of the Additional District and Sessions Judge (Fast Track Court), Dindigul on such terms and conditions.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.JOHN VINCENT, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **R.SUBBIAH, J**)

The petitioner/appellant is the sole accused in S.C.No.82 of 2012 on the file of learned Additional District and Sessions Judge (Fast Track Court), Dindigul. The Trial Court convicted the petitioner for the offence under Section 302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo imprisonment for six months. Challenging the said conviction and sentence imposed, the petitioner has come up with the appeal. Pending appeal, he seeks suspension of the substantive sentence of imprisonment imposed on him.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and we have also perused the records carefully.



3. The case of the prosecution is that the accused indulged in eve-teasing P.Ws 1 and 2. Subsequently, they have complained the same to the deceased, who is their Junior paternal uncle. When the same was questioned by the deceased, the accused on 08.07.2011 at about 9.00 p.m., took a stick and beat the deceased on his leg, due to which, the deceased fell down. Again, the accused took a broken bottle and inflicted injuries on his left ear and on his head indiscriminately, because of which, the deceased died.

4. The learned counsel for the petitioner submitted that the prosecution has not established its case and therefore, there is an ample chance for the accused getting acquittal. Even if the Court comes to the conclusion that the prosecution has established its case, then the offence would fall only under Exception to Section 300 IPC and hence, he prayed for suspending the substantive sentence of imprisonment imposed on the petitioner.

5. The learned Additional Public Prosecutor vehemently opposed this petition for suspending the sentence.

6. Considering the facts and circumstances of the case and considering the fact that there are arguable points in favour of the petitioner, we are inclined to suspend the sentence of imprisonment alone imposed on the petitioner pending appeal.

7. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner is directed to be enlarged on bail, on the following conditions:

The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Palani and on further condition that the petitioner shall report before the committal Court at 10.30 a.m., on the first working day of every English Calendar Month, until further orders.

sd/-

14/11/2017

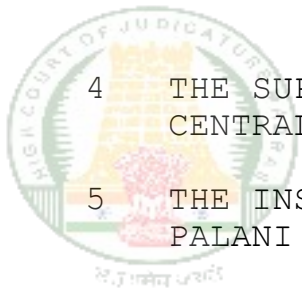
/ TRUE COPY /

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(FAST TRACK COURT), DINDIGUL.

2 THE JUDICIAL MAGISTRATE, PALANI.



4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

5 THE INSPECTOR OF POLICE,
PALANI TALUKA POLICE STATION, PALANI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.A.JOHN VINCENT Advocate SR.No.34437

ORDER

IN

CRL MP (MD) No.8303 of 2017

IN

CRL A (MD) No.360 of 2017

Date :14/11/2017

MKV-PM-PN-SAR 2/20.11.2017/3P-8C