



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

Wednesday, the Twenty Seventh day of September Two Thousand
Seventeen

PRESENT

WEB COPY

The Hon`ble Mr Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice S.S.SUNDAR

CRL MP (MD) No.8759 of 2017
IN
CRL A (MD) No.438 of 2016

ABDUL SUKKOOR

...APPELLANT/ACCUSED

Vs

THE STATE REPRESENTED THROUGH
THE INSPECTOR OF POLICE

ARALVAIMOZHY POLICE STATION, KANYAKUMARI DISTRICT,
(IN CRIME NO. 706 OF 2011)

... RESPONDENT/COMPLAINANT

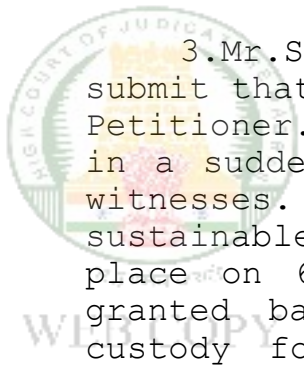
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Learned Sessions Judge, Kanyakumari Division at Nagercoil in S.C.No.96 of 2012 dated 21.09.2016 and enlarge the Appellant on bail pending disposal of the above said Criminal 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.M.A.JINNAH, Advocate for the petitioner and of Mr.C.Ramesh, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **K.KALYANASUNDARAM.J.,**)

This petition has been filed praying to suspend the sentence imposed by the learned Sessions Judge, Kanyakumari Division at Nagercoil in S.C.No.96 of 2012, dated 21.09.2016 and to enlarge the Petitioner/appellant on bail, pending disposal of the above Criminal Appeal.

2.The case of the prosecution is that on 6.10.2011 night, the accused Abdul Sukkur was found quarrelling with his wife Sulochana @ Noorjahan and when the deceased Suresh, who is the brother-in-law of the Petitioner/Abdul Sukkur intervened to pacify them the petitioner attacked the deceased with brandy bottle and caused fatal injury.



3.Mr.S.M.A.Jinnah, learned counsel for the Petitioner would submit that the deceased is none other than the brother-in-law of the Petitioner. Even according to him, the occurrence has taken place in a sudden provocation and the conviction is based on interested witnesses. Therefore, conviction under Section 302 IPC is not sustainable. It is further submitted that the occurrence has taken place on 6.10.2011 and pending investigation, the petitioner was granted bail and after conviction, he has been under judicial custody for the past 21/2 years. The learned counsel for the petitioner would submit that the petitioner is suffering from Paralytic attack and needs medical treatment and he is ready to abide by any conditions of this Honourable Court.

4.Mr.C.Ramesh, learned Additional Public Prosecutor would submit that the prosecution has examined P.W.1 to 3, who are eye-witnesses to the occurrence. The Petitioner is convicted for life sentence and hence, he is not entitled for the relief of suspension of sentence as prayed for by him.

5.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 him, we are inclined to grant suspension of the sentence.

6. In fine, this petition is allowed and the sentence imposed against the petitioner in S.C.No.96 of 2012 by the learned Sessions Judge Kanyakumari Division at Nagercoil alone is suspended till the disposal of Criminal Appeal No.438 of 2016 and the petitioner will be released on bail on executing a bond for a sum of Rs.10,000/- and two sureties each for a like-sum to the satisfaction of the learned Judicial Magistrate, Boothapandy, Kanyakumari District and on further condition that the petitioner 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/-
27/09/2017

/ TRUE COPY /

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

TO

- 1 THE SESSIONS JUDGE, KANYAKUMARI DIVISION AT NAGERCOIL
- 2 THE JUDICIAL MAGISTRATE
BOOTHAPANDY, KANYAKUMARI DISTRICT
- 3 -do-thro THE CHIEF JUDICIAL MAGISTRATE
KANYAKUMARI DISTRICT AT NAGERCOIL



4 THE INSPECTOR OF POLICE
ARALVAIMOZHY POLICE STATION, KANYAKUMARI DISTRICT

5 THE SUPERINTENDENT
CENTRAL PRISON, COIMBATORE

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

+1. C.C. to M/S.S.M.A.JINNAH Advocate SR.No.31641

ORDER
IN
CRL MP (MD) No.8759 of 2017
IN
CRL A (MD) No.438 of 2016
Date :27/09/2017

SM:CM-MSA:SAR 3:4.10.2017:3P/8C