



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

Friday, the Third 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.9375 of 2017

IN

CRL A (MD) No.295 of 2017

THAMBIRAJA AMSON @ THAMBIRAJA,

...APPELLANT/PETITIONER

Vs

STATE REP.BY

THE INSPECTOR OF POLICE,
THISAIYANVIAI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.174 OF 2011)

... RESPONDENT/RESPONDENT

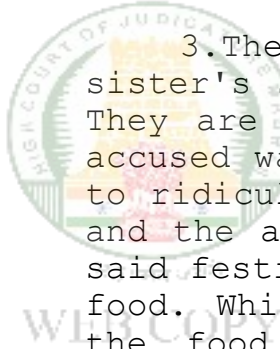
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by the I Addl.District & Sessions Court, Tirunelveli in S.C.No.27 of 2012 by his Judgment dated 27.02.2017 and enlarge the petitioner on bail pending disposal of the above appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.GOPINATH, Senior Counsel for MR.L.MAHENDRAN, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor for 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.27 of 2012 on the file of learned I Additional District & Sessions Judge, Tirunelveli. He has been convicted for the offence under Section 302 IPC and sentencing him to undergo life imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for one year and convicted for the offence under Section 506(ii) IPC and sentenced to undergo one year rigorous imprisonment. Challenging the said conviction and sentence imposed, the petitioner has come up with this 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 deceased is the sister's son of P.W.1. The deceased and P.W. 2 are close friends. They are the members of the Samariya Church, Thisaiyanvilai. The accused was residing within the Church premises. Since P.W.2 used to ridicule the wife of the accused, there was enmity between P.W.2 and the accused. On 05.05.2011, there was Church festival. In the said festival, during dinner, the members of the Church were serving food. While serving food, it is alleged that they have not served the food properly to the accused. This was questioned by the accused. But the deceased intervened and tried to pacify them. Enraged over the same, the accused went inside the house, which is situated just nearer to the place, where the dinner was arranged and brought the knife and stabbed the deceased on his left shoulder. Thereafter, he was taken to the Tirunelveli Medical College Hospital, where he was declared brought dead.

4. The learned senior counsel for the petitioner submitted that though the police station situated at a distance of one furlong from the place of occurrence, the FIR was registered only after a delay of eight hours and there is no explanation for the same from the prosecution. Moreover, even according to the prosecution, the deceased sustained a single stab and the other injuries were sustained by the deceased only on account of fall on the ground. Therefore, there is an ample chance for the accused getting acquittal in this case and prayed for suspending the substantive sentence of imprisonment.

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 Judicial Magistrate, Nanguneri, 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/-

03/11/2017

/ TRUE COPY /



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TO

1 THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI

2 THE JUDICIAL MAGISTRATE, NANGUNERI, TIRUNELVELI DISTRICT

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT

4 THE INSPECTOR OF POLICE,
THISAIYANVIAI POLICE STATION, TIRUNELVELI DISTRICT.

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

6 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI

+1. C.C. to M/S.L.MAHENDRAN Advocate SR.No.33766

GJM/SM/RR/SAR-I-6.11.2017-3P-8C

ORDER
IN
CRL MP (MD) No.9375 of 2017
IN
CRL A (MD) No.295 of 2017
Date :03/11/2017