



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

Tuesday, the Twentieth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Dr.Justice S.VIMALA  
and

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1007 of 2018  
in  
CRL A(MD)No.68 of 2018

1 PERUMAL  
2 PANDISELVAM

... PETITIONERS / APPELLANTS

Vs

THE STATE REPRESENTED BY  
THE INSPECTOR OF POLICE,  
THIDEERNAGAR (L & O) POLICE STATION,  
MADURAI CITY.  
(CRIME NO.71 OF 2014)

... 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 of Imprisonment imposed by the learned I-Additional District and Sessions Judge, Madurai in S.C.No.14 of 2015 by the Judgment dated 09.11.2017 and enlarge the Petitioners / Appellants 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 Mr.S.KANAGARAJAN, Advocate for the petitioners and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **S.VIMALA, J**)

The petitioners/appellants are the accused Nos.2 and 4 in S.C.No.14 of 2015 on the file of the I Additional District and Sessions Judge, Madurai. They have been convicted and sentenced as follows:

| Accused | Penal provisions | Punishment                                                                                                                  |
|---------|------------------|-----------------------------------------------------------------------------------------------------------------------------|
| A2 & A4 | 302 r/w 149 IPC  | To undergo imprisonment for life and to pay a fine of Rs.10,000/- in default, to undergo rigorous imprisonment for one year |



A2 & A4

147 IPC

To undergo imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo rigorous imprisonment for two months

Challenging the said conviction and sentence imposed, the petitioners have come up with this appeal. Pending appeal, they seek suspension of the substantive sentence of imprisonment imposed on them.

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

3. The learned counsel for the petitioners would submit that out of 9 persons, A1, A2, A3, A4 and A9 have been convicted by the trial Court. The learned counsel for the petitioners would submit that it is only A1, who was armed with weapons and only against him, there is an allegation of causing murder directly and with reference to other accused persons, they are stated to be the members of the unlawful assembly, having been charged under Section 149 IPC, in respect of which, there is no evidence at all against these three persons.

4. The learned Additional Public Prosecutor, however, would submit that they had the common intention and common object of committing murder of the deceased, but the extent of enmity and the extent of causing murder are not elaborated by the prosecution.

5. Under such circumstances, when excepting A1, nobody is armed with any weapons and nobody caused any injuries to the deceased, and considering there are arguable points in favour of the petitioners, we are inclined to suspend the sentence of imprisonment alone imposed on the petitioners alone pending appeal, on par with A9.

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

The petitioners 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, No.V, Madurai, and on further condition that the petitioners shall report before the concerned Court at 10.30 a.m., on the first working day of every English Calendar Month, until further orders.

sd/-

20/03/2018

/ TRUE COPY /



TO

1 THE JUDICIAL MAGISTRATE NO.V,  
MADURAI

2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
MADURAI

3 THE I-ADDITIONAL DISTRICT AND SESSIONS JUDGE,  
MADURAI

4 THE INSPECTOR OF POLICE,  
THIDEERNAGAR (L & O) POLICE STATION,  
MADURAI CITY.

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

6 THE SUPERINTENDENT, CENTRAL PRISON  
MADURAI

+1. C.C. to M/S.S.KANAGARAJAN Advocate SR.No.4389

RR

JAM/28/03/2018/ CM-VR / SAR 2 / 3p-8c

ORDER

IN

CRL MP (MD) No.1007 of 2018 in

CRL A (MD) No.68 of 2018

Date :20/03/2018