



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

Monday, the Twenty Second day of October Two Thousand Eighteen

PRESENT

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**The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR**

**CRL MP(MD) Nos.1084 and 1085 of 2018
IN
CRL A(MD) Nos.73 and 74 of 2018**

SARAVANAN, ... PETITIONER/APPELLANT
IN CRL MP(MD).NO.1084/18 IN CRL A(MD).NO.73/18

RAJA ... PETITIONER/APPELLANT
IN CRL MP(MD).NO.1085/18 IN CRL A(MD).NO.74/18

Vs

STATE THROUGH
THE INSPECTOR OF POLICE,
ARUPPUKOTTAI TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.279 OF 2013) ... RESPONDENT/RESPONDENT

COMMON PRAYER IN CRL MP(MD) Nos.1084 and 1085 of 2018 :-

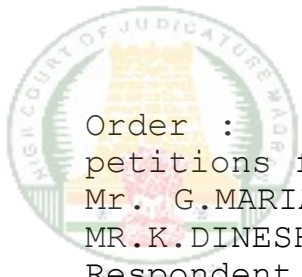
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the operation and execution of sentence imposed by the Learned Additional District & Sessions Judge, Virudhunagar, Virudhunagar District in S.C.No.178 of 2013 dated 25.01.2018 till the disposal of appeal and may be pleased to enlarge the petitioner on bail till the disposal of pending appeal and thus render justice.

Prayer in CRL A(MD). 73/ 2018 :

To take this Appeal on file call for records and may be pleased to allow this appeal by setting aside the Judgment and conviction imposed by Additional District and Sessions Judge, Virudhunagar in S.C.No.178 of 2013 dated 25.01.2018 and may be pleased to acquit to Appellant/A1 on the charges leveled against him and thus render justice.

Prayer in CRL A(MD). 74/ 2018 :

To allow this appeal by setting aside the Judgment and conviction imposed by Additional District and Sessions Judge, Virudhunagar in S.C.No.178 of 2013 dated 25.01.2018 and may be pleased to acquit to Appellant/A2 on the Charges leveled against him and thus render justice.



Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr. G.MARIAPPAN, Advocate for the petitioner in both petitions and MR.K.DINESH BABU, Additional Public Prosecutor on behalf of the Respondent in both petitions, the court made the following order:-

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[Order of the Court made by **M.M.SUNDRESH, J.,**]

The petitioners in Crl.M.P.[MD]Nos.1084 & 1085 of 2018 are arrayed as the accused Nos.1 and 2 in S.C.No.178 of 2013, on the file of the Additional District & Sessions Judge, Virudhunagar, Virudhunagar District and under Judgment dated 25.01.2018, A1 has been convicted for the offence under Section 302 & 307 r/w. Section 34 of IPC and A2 has been convicted for the offence under Section 302 and 307 IPC and sentenced to undergo imprisonment for life. Pending disposal of the Criminal Appeals, the petitioners have come forward to file the present Miscellaneous Petitions seeking suspension of sentence.

2.The case of the prosecution is that the petitioner in Crl.M.P.[MD]No.1085 of 2018 in Crl.A.[MD]No.74 of 2018 having arrayed as Accused No.2 went to the hotel and sought for a parcel on 23.05.2013 at about 10:45 p.m.. In pursuant to the wordy quarrel, he brought Accused No.1, who is the petitioner in Crl.M.P.[MD] No.1084 of 2018 in Crl.A.[MD]No.73 of 2018. A1 is said to have attacked the deceased with the knife. P.W.2 is the injured witness. Though P.W.2 has turned hostile, the trial Court has placed reliance on the evidence of P.W.4 and convicted the petitioners for life.

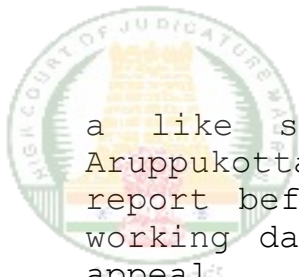
3.The learned Counsel appearing for the petitioners would submit that P.W.1 has deposed that he has seen the accused in the police station at the time of lodging the FIR. P.W.2 has turned hostile. P.W.4 is a chance witness.

4.The learned Additional Public Prosecutor appearing for the respondents would submit that in view of the evidence of P.W.4, who is an eye-witness, trial Court rightly convicted the petitioners. Therefore, the sentence should not be suspended.

5.We have considered the above submissions and perused the records carefully.

6.Considering the facts and circumstances of the case and taking into account that several arguable points are involved coupled with the period of incarceration, we are inclined to suspend the substantive portion of sentence imposed on the petitioners.

7.Accordingly, the present Miscellaneous Petitions are allowed and the substantive sentences of imprisonment alone are suspended in respect of the petitioners and they are directed to be enlarged on bail on condition that they shall execute a separate 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, Aruppukottai and on further condition that the petitioners shall report before the Judicial Magistrate No.I, Madurai, on the first working day of every English Calendar month at 10.30 a.m. pending appeal.

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sd/-
22/10/2018

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

TO

1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGER.

2.THE JUDICIAL MAGISTRATE, ARUPPUKKOTTAI.

3.DO THOR'THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

4.THE JUDICIAL MAGISTRATE NO.I, MADURAI.

5.DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

6.THE INSPECTOR OF POLICE,
ARUPPUKKOTTAI TOWN POLICE STATION,
VIRUDHUNAGAR DISTRICT.

7.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+2. C.CS. to MR G.MARIAPPAN Advocate SR.No.19956,19957

ORDER
IN

CRL MP (MD) Nos.1084 and 1085 of 2018
IN

CRL A (MD) Nos.73 and 74 of 2018

Date :22/10/2018

AE/VR MMS/SAR4/24.10.2018/3P/11C

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