



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

Monday, the Twenty Third day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice C.T.SELVAM

and

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.1104 of 2018

IN

CRL A(MD) No.75 of 2018

MAYANDI

... PETITIONER/APPELLANT/ACCUSED (SINGLE)

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
THIRUKURUNGUDI POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.26 OF 2014)

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to release the petitioner on bail by suspending the sentence imposed by the learned III Additional District Sessions Judge, Tirunelveli in S.C.No.120 of 2015 vide his judgment dated 06.02.2016 pending the disposal of the main Criminal Appeal pending on the file of this Honourable Court and thus render justice.

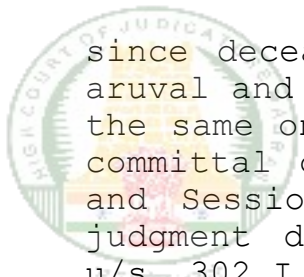
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.E.SOMASUNDARAM, Advocate for the petitioner and of MR.S.CHANDRA SEKAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

[Order of the Court passed by **C.T.SELVAM, J.**]

Petitioner is arrayed as accused S.C.No.120 of 2015, on the file of the Learned III Additional District and Sessions Judge, Tirunelveli, and under judgment dated 06.02.2016, he has been convicted for the offence under Section 302 I.P.C. and sentenced to life imprisonment and fine of Rs.1,000/- i/d 3 months R.I. Petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.

2. Heard learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the respondent.

3. The case of the prosecution was that the petitioner demanded division of family properties, under the control of the deceased and



since deceased refused to do so, the petitioner attacked him with aruval and committed murder. A case was registered on 27.02.2014 and the same on completion of investigation, filing of final report and committal came up for trial before learned III Additional District and Sessions Judge, Tirunelveli in S.C.No.120 of 2015 and under judgment dated 06.02.2016, Accused was convicted for the offence u/s. 302 I.P.C.

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4.Learned counsel for petitioner submitted that though P.Ws.2 to 6 in this case are alleged to be eyewitnesses, except P.W.4 and 5 others turned hostile. While P.W.4 is the son-in-law of the deceased, P.W.5 is his co-brother. P.W.4 has stated that upon witnessing the occurrence he called P.W.1 over cellphone and informed of the occurrence, P.W.1 has stated that she did not know who called her over phone. P.W.1 is the complainant in the case. She has also admitted that she signed in a blank paper and to not knowing particulars of the complaint. Further P.W.5, the other alleged eyewitness, though claimed to have carried the deceased, no blood stained clothes of his being recovered as would establish his presence in the scene of occurrence had been seized. The alleged independent eyewitnesses, namely, P.Ws.2, 3 and 6 have turned hostile. Learned counsel for petitioner further submits that the petitioner has been in incarceration from 06.02.2016 and presently is confined at Central Prison, Palayamkottai, Tirunelveli. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioner herein.

5. Per contra, learned Additional Public Prosecutor, contended that the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. He strongly opposed to the grant of the relief of suspension of sentence to petitioner.

6.Considering the facts and circumstances of the case and the submission of both sides, this Court considers it appropriate to suspend the substantive portion of sentence imposed on petitioner.

7.Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner / accused and he is directed to be enlarged on bail on condition that he shall execute a bond in a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate, Valliyoor, and on further condition that petitioner shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-

23/04/2018

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TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE, VALLIYOOR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

5 THE INSPECTOR OF POLICE,
THIRUKURUNGUDI POLICE STATION,
TIRUNELVELI DISTRICT.

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

+1. C.C. to M/S.E.SOMASUNDARAM Advocate SR.No.6997

ORDER

IN

CRL MP (MD) No.1104 of 2018

IN

CRL A (MD) No.75 of 2018

Date :23/04/2018

MKV-CM-VR-VK/24.4.2018/3P-8C