



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

Monday, the Ninth 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.1128 of 2018

IN

CRL A(MD) No.467 of 2017

1 MURUGAN
2 THAMBURAN @ KRISHNAN
3 PONNAIAH
(NOW CONFINED AT CENTRAL PRISON,
MADURAI)

... PETITIONERS/APPELLANTS/
ACCUSED NOS.1 TO 3

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
TENKASI POLICE STATION,
IN CRIME NO.271/2009,
TIRUNELVELI DISTRICT.

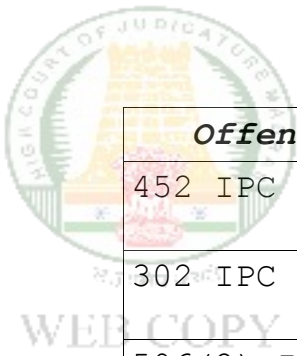
... RESPONDENT/RESPONDENT/
COMPLAINANT

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 on petitioners /appellants/accused in S.C.No.4/2009 dated 31/10/2017 on the file of the Learned District and Sessions Court (Communal Clash cases court), Madurai and enlarge them on bail pending disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.A.K.AZAGARSMI FOR MR.G.KARUPPASAMY PANDIYAN, Advocate for the petitioners and of MR.R.ANANDHARAJ, Additional Public Prosecutor for the Respondent the court made the following order:-

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

Petitioners are arrayed as accused Nos.1 to 3 in S.C.No.4 of 2009 on the file of learned Judicial Magistrate, Thenkasi and under judgment dated 31.10.2009, they have been convicted for offences u/s.452, 302 and 506(ii) IPC and sentenced as follows:



Offence	Sentence
452 IPC	5 years R.I. and fine of Rs.5,000/- i/d 1 year R.I.
302 IPC	Life imprisonment and fine of Rs.10,000/- i/d 3 years R.I.
506(2) IPC	4 years R.I.

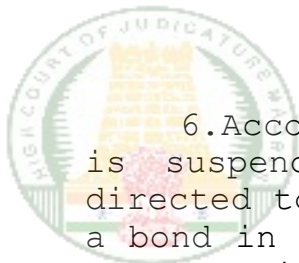
Petitioners have come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.

2.The case of the prosecution is that the accused conspired to do away with the life of the deceased in retaliation of the murder committed by Muslim community people and in furtherance of their conspiracy on 06.05.2009 at 1.20 p.m., A1 to A3/petitioners attacked deceased Mohammed Mydeen with their aruvals and extended life threat against the witnesses and left the scene of crime and A4 to A6 kept a watch on public movement. A case was registered on 06.05.2009 in Crime No.271 of 2009 on the file of respondent and the same, on completion of investigation, filing of final report and committal, came up for trial before learned District and Sessions Judge (Communal Clashes Court), Madurai in S.C.No.4 of 2009 and under judgment dated 31.10.2009, the petitioners/A1 to A3 were convicted for the offences under Sections 452, 302 and 506(2) I.P.C. and A4 to A8 were acquitted.

3.Mr.A.K.Azagarsami, learned counsel for petitioners, submits that the deceased had been done to death in a browsing centre which he was operating in a building complex at Tenkasi. On the same evidence, the Court below has acquitted 5 out of 8 accused but convicted A1 to A3/petitioners. Learned counsel contended that the presence of P.W.1 at the centre was most unlikely as even according to him he chanced to be at the centre at the time of occurrence and though P.W.1 admitted to having known all the accused, he had not informed the name of the accused in the complaint. P.W.2 servant of the deceased allegedly present at the scene was treated hostile as he did not support the prosecution case. P.W.3 another servant of the deceased had admitted to not knowing the accused and P.W.3 had not taken part in the test identification parade. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioners herein.

4. Per contra, Mr.R.Anandharaj, 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 petitioners.

5. Considering the facts and circumstances of the case and submissions on both sides, this Court consider it appropriate to suspend the substantive portion of sentence imposed on petitioners.



6. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioners/A1 to A3 and they are directed to be enlarged on bail on condition that they shall execute a bond in a sum of Rs.10,000/- [Rupees ten thousand only] each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Thenkasi and on further condition that petitioners shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-
09/04/2018

/ TRUE COPY /

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

SJ
TO

- 1 THE DISTRICT AND SESSIONS
JUDGE (COMMUNAL CLASH CASES COURT), MADURAI
 - 2 THE JUDICIAL MAGISTRATE, THENKASI
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT
 - 4 THE INSPECTOR OF POLICE
TENKASI POLICE STATION, TIRUNELVELI DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
 - 6 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- +1. C.C. to M/S.AK.AZAGARSAMI Advocate SR.No.5709
- GJM/CM/VR/RNB/12.4.18-3P-8C

ORDER
IN
CRL MP (MD) No.1128 of 2018
IN
CRL A (MD) No.467 of 2017
Date : 09/04/2018