



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

Wednesday, the Eleventh 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.1166 of 2018

IN

CRL A (MD) No.81 of 2018

AYYAPPAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
THISAYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT
(IN CRIME NO.333 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 the petitioner in S.C.No.68 of 2016 dated 17.01.2018 passed by 3rd Additional Sessions Judge, Tirunelveli by granting bail pending disposal of the above Criminal Appeal.

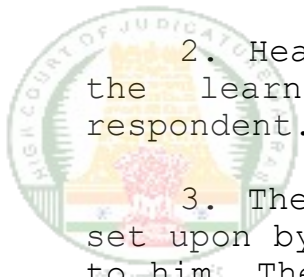
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.NIRANJAN.S.KUMAR, Advocate for the petitioner and of MR.S.CHANDRASEKARAN, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

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

Petitioner is arrayed as A1 in S.C.No.68 of 2016 on the file of the learned III Additional Sessions Judge, Tirunelveli and under judgment dated 17.01.2018, he has been convicted and sentenced as under:

Offence	Sentence
341 IPC	One Month S.I
302 IPC	Life Imprisonment and fine of Rs.5,000/- i/d 6 months R.I.

Petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.



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

3. The case of the prosecution was that the deceased had been set upon by three persons and done to death. 18 injuries were caused to him. The occurrence took place on 03.11.2014 at about 18.00 hrs. A case was registered on 04.11.2014 and the same on completion of investigation, filing of final report and committal came up for trial before the learned III Additional Sessions Judge, Tirunelveli in S.C.No.68 of 2016 and under judgment dated 17.01.2018, the petitioner / A1 was convicted for the offence u/s., 341 & 302 IPC and sentenced to undergo imprisonment for life for the offence under Section 302 IPC and also sentenced to undergo simple imprisonment for one month for the offence under Section 341 IPC.

4. Learned Senior Counsel for petitioner submits that as against EX-P15, the death intimation sent by the Medical College Hospital, Tirunelveli to the respondent police on 03.11.2015 itself, the First Information Report came to be registered on 04.11.2015, at 06.00 a.m, viz., 12 hours after the occurrence, although even according to the First Information Report, the place of occurrence was a mere 300 metres from the Police Station. PW-1, the wife of the deceased and PW-2, her brother, are close relatives and thus, their evidence requires close scrutiny and the registration of First Information Report at the instance of PW-1 is highly unbelievable. PW-16, in whose trekker vehicle, the body of the deceased was taken to hospital, had admitted to having been required to do so by the police. Learned Senior Counsel for petitioner further submits that petitioner presently is confined at Central Prison, Palayamkottai. Submitting as above, learned Senior 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 relief of suspension of sentence to the petitioner.

6. Considering the facts and circumstances of the case and the submission of both sides that the present petitioner stands on the same footing as A2, whose sentence was suspended by this Court on 09.04.2018 in Cr.M.P.(MD)No.2037 of 2018 in CrI..A.(MD)No.54 of 2018, 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 / A1 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 the learned District Munsif cum Judicial Magistrate, Nanguneri, 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/-
11/04/2018

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

TO

- 1 THE III ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.
- 2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NANGUNERI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 5 THE INSPECTOR OF POLICE,
THISAYANVILAI POLICE STATION,
TIRUNELVELI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.NIRANJAN.S.KUMAR Advocate SR.No.5856

ORDER
IN
CRL MP (MD) No.1166 of 2018
IN
CRL A (MD) No.81 of 2018
Date :11/04/2018

MKV-CM-VR-VK/13.4.2018/3P-8C