



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

Friday, the Ninth 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.1169 of 2018

IN

CRL A(MD) No.367 of 2017

MUNIYANDI @ MUNIRAJ

... PETITIONER/ APPELLANT/ ACCUSED NO.3
Vs

STATE REP.BY

THE INSPECTOR OF POLICE,

B3 TEPPAKULAM POLICE STATION.

CRIME NO.391/2013

... RESPONDENT/ RESPONDENT/ COMPLAINANT

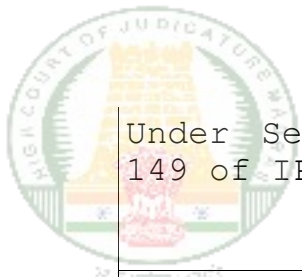
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the learned IVth Additional District Judge Madurai in S.C.No. 399/2014 vide its Judgment dated 10.08.2017 pending the disposal of the main criminal appeal and enlarge the petitioner on bail and grant such other further relieves as this Honourable Court deems fit and necessary in the nature and circumstances of the case.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.RAJARAMAN, Advocate for the petitioner and of M/S.M.CHANDARA SEKARAN, 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 petitioner/appellant is the accused No.3 in S.C.No.399 of 2014 on the file of learned IV Additional District Judge, Madurai. He has been convicted and sentenced as follows:

Penal provisions	Punishment
Under Section 364(A) r/w 149 of IPC	To undergo imprisonment for life with a fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months.



Under Section 386 r/w 149 of IPC	To undergo rigorous imprisonment for five years with fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months.
Under Section 395 r/w 149 of IPC	To undergo rigorous imprisonment for five years with fine of Rs.5,000/-, in default, to undergo simple imprisonment for three months.
Under Section 506(2) r/w 149 of IPC	To undergo simple imprisonment for two years and no fine is imposed.

Challenging the said conviction and sentence imposed, the petitioner/accused No.3 has come up with this appeal. Pending appeal, he seeks suspension of the substantive sentence of imprisonment imposed on him.

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

3.The prosecution relies upon the recovery of jewels marked as M.Os.12 to 15, which were recovered from the third accused Muniyandi.

4.The learned counsel for the appellant/accused would submit that those properties viz., M.Os.12 to 15 belonged to the wife of the accused No.3 and it was not purchased by A3 out of the money extorted from P.W.1 and this contention is supported by the Judgment of the lower Court also, wherein the Court has given a clear cut finding that the prosecution has not let in any evidence to show that the jewels marked as M.Os.12 to 15 were purchaed by the accused No.3 out of the money extorted from P.W.1. On proper receipts and documents being produced, those properties have been handed over to D.W.1, the wife of A3-Muniyandi.

5.The learned Additional Public Prosecutor would submit that apart from M.Os.12 to 15, there is also recovery of knife and other articles, but perusal of the documents would go to show that those recovery witnesses have turned hostile and that the recoveries have not been proved by the prosecution.

5.Under the stated circumstances, we feel it appropriate to grant suspension of sentence to the petitioner/accused No.3. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/accused No.3 is suspended and the petitioner/accused No. 3 is directed to be enlarged on bail, on the following conditions:

6.The petitioner/accused No.3 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 learned IV Additional District



Judge, Madurai and on further condition that the petitioner/accused No.3 shall report before the committal Court once in a week, on each Monday at 10.30 a.m.

sd/-

09/03/2018

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/ TRUE COPY /

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

TO

1. THE IVTH ADDITIONAL DISTRICT JUDGE,
MADURAI.
2. THE INSPECTOR OF POLICE,
B3 TEPPAKULAM POLICE STATION.
3. THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.R.PARTHIPAN, Advocate SR.No.3772

ORDER

IN

CRL MP (MD) No.1169 of 2018

IN

CRL A (MD) No.367 of 2017

Date : 09/03/2018

MS/PM-PN/SAR.4/09.03.2018/3P.6C