



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

Tuesday, the Twenty Fourth day of April Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice C.T.SELVAM
and
The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.2110 of 2018
IN
CRL A(MD) No.131 of 2018

M.PRABAKARAN,

... APPELLANT/ACCUSED NO.1

Vs

THE STATE OF TAMIL NADU
THE INSPECTOR OF POLIE,
THIRUKOKARNAM POLICE STATION,
PUDUKOTTAI DISTRICT.

(CRIME NO.252 OF 2012)

... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Suspend the Sentence and grant bail to the Appellant/Accused No.1 against the Judgement dated 07.11.2017 in S.C.No.43 of 2013 on the file of the Additional District and Sessions Court (Special Court for E.C.Act) Pudukottai District in Crime No.252 of 2012 on the file of the Respondent Polie pending disposal of the instant Criminal Appeal on such terms and conditions as may be deemed fit 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.I.PINAYGASH, Advocate for the petitioner and of MR.R.ANANDHA RAJ, Additional Public Prosecutor for the Respondents the court made the following order:-

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

Petitioner is arrayed as Accused No.1 in S.C.No.43 of 2013, on the file of the Learned Additional District and Sessions Court [Special Court for EC Act], Pudukkottai and under judgment dated 07.01.2017, he has been convicted and sentenced as under:

Offence	Sentence
302-IPC	Life Imprisonment and a fine of Rs.1,000/- i/d
	two years rigorous imprisonment



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.

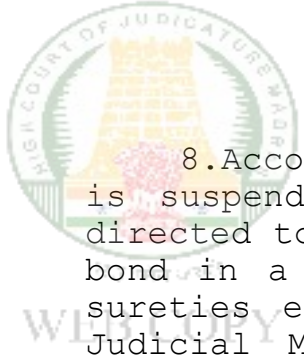
3. The case of the prosecution is that on 29.07.2012, at about 09.30 PM, there was a wordy quarrel between the deceased and the second accused in respect of ancestral an property and at that time, the first accused came to the scene and attacked the deceased on his head with wooden log, lying by the side of the house and also attacked him picking up a steel gate. The deceased was taken to the Government Hospital, at Thanjavur and on 31.07.2012, the deceased succumbed to the injuries. A case was registered and the same on completion of investigation, filing of final report and committal came up for trial before the Learned Additional District and Sessions Court [Special Court for EC Act], Pudukkottai District in S.C.No.43 of 2013 and under Judgment dated 07.11.2017, the Accused No.1 was convicted for the offence under Section 302 IPC and sentenced to undergo imprisonment for life for the offence under Section 302 IPC.

4. The learned counsel appearing on behalf of the petitioner submits that the admission of PW-2, the mother of the deceased in cross-examination that the deceased had suffered injuries owing to having fallen from a motorcycle, finds support in the medical evidence of PW-13, who had informed that the injuries to the head of the deceased could have been caused owing to an accidental fall from a motorcycle. Learned counsel for the petitioner further submits that the petitioner presently is confined at Central Prison, Trichy, Trichy District. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioner herein.

5. Per contra, the learned Additional Public Prosecutor submits that the cross-examination of PW-2 was conducted only on 12.01.2017, whereas the examination-in-chief of PW-2 was conducted on 05.09.2014 and she has been treated hostile. The learned Additional Public Prosecutor further submits 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. From a very reading of the charge, we find that the occurrence had taken place in a sudden quarrel and the case of the prosecution is that the petitioner had approached the scene unarmed and thereafter, picked up a wooden log to cause the fatal injury.

7. 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.



8. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner / accused No.1 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 Judicial Magistrate, Pudukkottai, 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/-
24/04/2018

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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
(SPECIAL COURT FOR EC ACT) PUDUKOTTAI
- 2 THE JUDICIAL MAGISTRATE,
PADUKOTTAI
- 3 THE CHIEF JUDICIAL MAGISTRATE
PUDUKOTTAI DISTRICT
- 4 THE INSPECTOR OF POLICE,
THIRUKOKARNAM POLICE STATION,
PUDUKOTTAI DISTRICT.
- 5 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.I.PINAYGASH Advocate SR.No.6948

ORDER
IN
CRL MP (MD) No.2110 of 2018
IN
CRL A (MD) No.131 of 2018
Date : 24/04/2018