



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

Tuesday, the Third day of July 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)Nos.2442, 3639 and 4987 of 2018
in

Crl.A.(MD)Nos.149, 244 and 293 of 2018

SHANMUGAM

... PETITIONER/ APPELLANT
IN CRL MP(MD)NO.2442 OF 2018
IN CRL A(MD)NO.149 OF 2018

1 RAMADOSS
2 SIVADOSS

... APPELLANTS/PETITIONERS/ACCUSED NO.2 & 3
IN CRL MP(MD)NO.3639 OF 2018
IN CRL A(MD)NO.244 OF 2018

STALIN

... PETITIONER/ APPELLANT/ ACCUSED NO.1
IN CRL MP(MD)NO.4987 OF 2018
IN CRL A(MD)NO.293 OF 2018

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
MADUKKUR POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.206/2009)

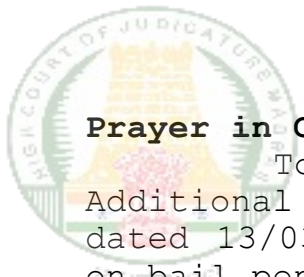
... RESPONDENT/ RESPONDENT
IN ALL THE PETITIONS

PRAYER IN CRL MP(MD)NO.2442 OF 2018 IN CRL A(MD)NO.149 OF 2018:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence made in S.C.No.71 of 2014 dated 13.03.2018 by the learned III Additional District & Sessions Judge, Pattukottai and enlarge them on bail pending disposal of the above appeal.

Prayer in CRL MP(MD) . 3639/ 2018 IN CRL A(MD)NO.244 OF 2018:

To suspend the sentences imposed by the learned III Additional District and Sessions Judge, Pattukottai by a judgment dated 13/03/2018 made in S.C.No.71/2014 and enlarge the petitioner on bail pending disposal of the above Crl.A.



Prayer in CRL MP(MD). 4987/ 2018 IN CRL A(MD)NO.293 OF 2018:

To suspend the sentences imposed by the Learned learned III Additional District and Sessions Judge, Pattukottai by a judgment dated 13/03/2018 made in S.C.No.71/2014 and enlarge the petitioner on bail pending disposal of the above Crl.A.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.T.SEKAR, Advocate for the petitioner in CRL MP(MD)NO.2442 OF 2018 IN CRL A(MD)NO.149 OF 2018, Mr.S.ASHOK KUMAR, Senior Counsel for Mr.R.JOHN SATHYAN, Advocate for Petitioners in CRL MP(MD)NO.3639 OF 2018 IN CRL A(MD)NO.244 OF 2018 and Mr.S.ASHOK KUMAR, Senior Counsel for Mr.P.DIVAKAR, Advocate for petitioner in CRL MP(MD)No.4987 of 2018 in CRL A(MD)No.293 of 2018 and of Mr.T.ANANDRAJ, Additional Public Prosecutor on behalf of the Respondents in all the petitions, the court made the following order:-

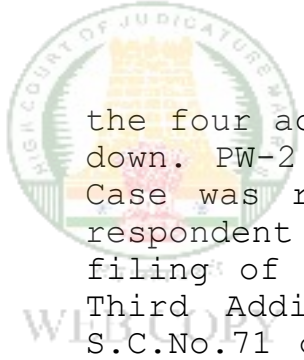
[Order of the Court made by **C.T.SELVAM, J.,**]

Petitioners are arrayed as accused Nos.1 to 4 in S.C.No.71 of 2014, on the file of the Third Additional District and Sessions Judge, Pattukottai and under Judgment dated 13.03.2018, they have been convicted and sentenced, the same including sentence of imprisonment for life. Petitioners have filed the Miscellaneous Petitions, seeking relief of suspension of sentence pending appeals.

2. We have heard Mr.S.Ashokkumar, learned Senior Counsel, representing Mr.R.John Sathyan, learned counsel on record, appearing for the petitioners in Crl.MP.(MD)Nos.3639 and 4987 of 2018, Mr.T.Sekar, learned counsel appearing for the petitioner in Crl.M.P.(MD).No.2442 of 2018, and Mr.T.Anandraj, learned Additional Public Prosecutor appearing for the respondent.

3. The case of the prosecution is that PW-1 is a resident of Aavikkottai Village in Dindigul District. PW-2 and the deceased are the sons of PW-1. They were residing with PW-1 at Aavikkottai Village. Two months prior to 06.07.2009, all the accused were found drinking liquor in the borewell shed of PW-1. PW-1 questioned the same. This resulted in ill-feeling between PW-1 and the accused.

4. It is alleged that on 06.07.2009, a music programme was arranged by the villagers, in connection with the Maigai Vinayagar Temple Festival at Aavikkottai Village. PW-1 and PW-2 along with the deceased had gone to the said temple around 09.00 PM. When PW-1 and PW-2 along with the deceased were proceeding in line, all four accused approached PW-1, PW-2 and the deceased menacingly. They shouted at PW-1, PW-2 and the deceased abusing them in filthy language. On reaching them, the first accused stabbed the deceased with a knife causing as many as seven injuries. When PW-2 intervened, the fourth accused caught hold of him and the second accused stabbed him with a knife on his head and neck. The third accused stabbed PW-2 with a knife on his buttocks and shoulders. All



the four accused kicked and beat PW-1, when he intervened. PW-1 fell down. PW-2 and the deceased had already fallen in a pool of blood. Case was registered in Crime No.206 of 2009, on the file of the respondent police and the same on completion of investigation, filing of final report and on committal was tried by the learned Third Additional District and Sessions Judge, Kanniyakumari, in S.C.No.71 of 2014 and under Judgment dated 13.03.2018, the accused were sentenced and convicted.

5. Mr.S.Ashokkumar, learned Senior Counsel, submits that the occurrence, which resulted in the death of one and injuries to two others, had allegedly taken place at 09.00 PM, on 06.07.2009. The prosecution party comprising PW-1, the father, the deceased and PW-2, his sons had gone over to the village temple to attend a music programme held in connection with the temple festival. PW-14, Inspector of Police, had admitted to the presence of the police at the scene towards ensuring smooth conduct of the festival. The deceased had, initially, been taken to the Mannarkudi Government Hospital and thereafter, to the Vinothakan Memorial Hospital at Thanjavur. The deceased died at 10.45 AM, on 07.07.2009. The First Information Report was allegedly registered on recording the statement of PW-1 at the hospital. Though the prosecution alleged that PW-1 was pushed down by the accused, he had suffered no injury.

6. The learned Senior Counsel further submits that PW-10, doctor, has spoken to injuries sustained by PW-2 as simple in nature. EX-P12 and EX-P13, Accident Registers, relating to PW-2 and the deceased inform that they had suffered injury owing to an attack by three persons, when they were travelling on a motorcycle. Learned Senior Counsel points out certain other discrepancies between the First Information Report and the evidences of witnesses regarding the manner in which the injuries came to be suffered. Learned Senior Counsel also submits that in the light of admission made by the police about their presence at the scene, it is highly unbelievable that the deceased and two others of the prosecution party could have been dragged by four persons and attack on them carried out without knowledge of any others, who had gathered. However, the version of the prosecution is that the others had come to the scene, after hearing the commotion. The prosecution has not cited any independent witness as having witnessed the occurrence.

7. We have considered the above submissions and perused the documents available on record.

8. As rightly pointed out by the learned Senior Counsel, no independent witness has been examined, though the occurrence took place at a temple festival. EX-P12 and EX-P13, Accident Registers, relating to PW-2 and the deceased inform that they had suffered injury owing to an attack by three persons, when they were travelling on a motorcycle, whereas the case of the prosecution is that the occurrence took place at close to the temple and on the deceased being dragged away from a group of people standing in line.



9. Considering the facts and circumstances of the case and the submission of both sides and also considering that the appeal is not likely to be heard in the near future, this Court considers it appropriate to suspend the substantive portion of sentence imposed on the petitioners.

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10. Accordingly, the present Miscellaneous Petitions are allowed and substantive sentence of imprisonment alone is suspended in respect of the petitioners/accused and they are directed to be enlarged on bail on condition that they shall execute a separate 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, Pattukottai and on further condition that petitioners shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m. pending appeal.

sd/-
03/07/2018

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

TO

1. THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PATTUKOTTAI.
2. THE JUDICIAL MAGISTRATE, PATTUKOTTAI.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
4. THE INSPECTOR OF POLICE,
MADUKKUR POLICE STATION, THANJAVUR DISTRICT.
5. THE SUPERINTENDENT, CENTRAL PRISON, TIRUCHIRAPPALLI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.T.SEKAR Advocate SR.No.11940
+1CC TO Mr.R.JOHN SATHYAN, Advocate, Sr NO.11936
+1CC TO Mr.P.DIVAKAR, Advocate, SR NO.11937

ORDER IN
Crl.MP.(MD)Nos.2442, 3639 and 4987 of 2018
in
Crl.A.(MD)Nos.149, 244 and 293 of 2018
Date :03/07/2018

MS/CM/RNB/04.07.2018/4P.10C