



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

Friday, the Twenty Seventh 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) Nos.2445 and 2829 of 2018
IN

CRL A(MD) Nos.150 and 176 of 2018

SIVA,

... APPELLANT/ACCUSED No.2 IN
CRL MP(MD) No.2445 of 2018
IN CRL A(MD) No.150 of 2018

NAGASUDARAM

...PETITIONER/ APPELLANT/ACCUSED No.1
IN CRL MP(MD) No.2829 of 2018
IN CRL A(MD) No.176 of 2018

Vs

THE INSPECTOR OF POLICE,
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.310 OF 2015.

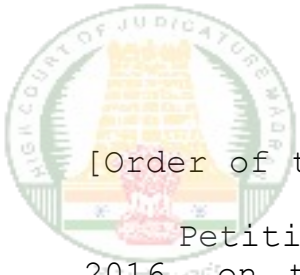
... RESPONDENT/COMPLAINANT IN
BOTH THE PETITIONS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to suspend the Sentence of Imprisonment imposed by the Additional District and Sessions Court, Ramanathapuram in S.C.No.119 of 2016 dated 03.02.2018 enlarge the petitioner / appellant onbail, pending disposal of the above said Criminal Appeal and thus render justice.

Prayer in CRL MP(MD). 2829/ 2018 :

To suspend the sentence passed by the judgment dated 03.02.2018 made in S.C.No. 119 of 2016 on the file of Additional District and Sessions Court, Ramanathapuram and enlarge the petitioner on bail pending disposal of the above appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.G.KARUPPASAMY PANDIAN for M/S.K.SANJAI GANDHI, Advocate for the petitioner in CRL MP(MD) No.2445 of 2018 IN CRL A(MD) No.150 of 2018 and MR.R.GANDHI, Advocate for the petitioner in IN CRL MP(MD) No.2829 of 2018 IN CRL A(MD) No.176 of 2018 and of MR.S.CHANDRA SEKAR, Additional Public Prosecutor for the respondent in both 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 and 2 in S.C.No.119 of 2016, on the file of the Additional District and Sessions Court, Ramanathapuram and under Judgment dated 03.02.2018, they have been convicted and sentenced as under:

Offence	Sentence
302 r/w 34 IPC	Life Imprisonment and a fine of Rs.25,000/- and Rs.15,000/- respectively i/d one year simple imprisonment.

Petitioners have come forward with the above Miscellaneous Petitions, seeking relief of suspension of sentence pending appeals.

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

3. The case of the prosecution is that of PW-5 and PW-6 having seen the deceased, after he had suffered burn injuries over his body on being set on fire by both the accused, who fled the scene. The alleged occurrence is at about 10.00 p.m., on 03.07.2015, near a graveyard, where PW-5, the younger daughter of the deceased and PW-6, son-in-law of the deceased chanced to be. Case was registered in Crime No.310 of 2015, on the file of the respondent police and the same on completion of investigation, filing of final report and committal, was tried by the Additional District and Sessions Court Ramanathapuram in S.C.No.119 of 2016 and under Judgment dated 03.02.2018, Accused Nos.1 and 2 were convicted for the offence under Section 302 r/w 34 IPC and sentenced to undergo imprisonment for life.

4. Learned counsel appearing for petitioners submits that the case of the prosecution is that the accused 1 and 2 took advantage of a chance meeting with the deceased and caused his death. The First Information Report, in this case, was registered on 04.07.2016, i.e, a after delay of 17 ^{1/2} hours. Though PW-5 and PW-6 had stated that they had taken the deceased to the house of PW-5 and being with him all along, the deceased had been moved to hospital by using the services of 108 Ambulance.

5. Learned counsel further submits that the Accident Register relating to the admission of the deceased at hospital and which would inform by whom he was produced therein has been suppressed. Learned counsel submits that PW-5 had admitted that neither she nor her husband had accompanied the deceased to hospital. It is further submitted that though PW-4, the Village Administrative Officer, has spoken to the arrest of the accused and the consequential recovery of motorcycle used by the accused, such vehicle has not been produced before Court.



6. Learned counsel further submits that the petitioners presently are confined at Central Prison, Madurai. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioners herein.

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7. Per contra, the learned Additional Public Prosecutor submits that the statement of the deceased informing the manner in which the accused poured petrol on him and set him on fire, had been recorded by the learned Judicial Magistrate under Section 164 of the Code of Criminal Procedure. He also submits that though the original Accident Register copy relating to the deceased was not marked, a carbon copy thereof had been marked, despite objections, as EX-P13, which revealed that the deceased had suffered 91% burn injuries. Thus, according to the learned Additional Public Prosecutor, 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 grant of relief of suspension of sentence to the petitioners.

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

9. Accordingly, the Miscellaneous Petitions are allowed and the substantive sentence of imprisonment alone is suspended in respect of petitioners/accused Nos.1 and 2 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 likesum to the satisfaction of the learned Judicial Magistrate, Ramanathapuram, 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 appeals.

sd/-
27/04/2018

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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, RAMANATHAPURAM

<https://hcservices.ecourts.gov.in/hcservices/>

2 THE JUDICIAL MAGISTRATE,
RAMANATHAPURAM



3 THE CHIEF JUDICIAL MAGISTRATE
RAMANATHAPURAM

4 THE INSPECTOR OF POLICE,
KENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

5 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.K.SANJAI GANDHI Advocate SR.No.7572

+1 cc to M/S.R.GANDHI, Advocate SR.No.7744

ORDER
IN

CRL MP (MD) Nos.2445 and 2829 of 2018
IN CRL A (MD) Nos.150 and 176 of 2018
Date :27/04/2018

SMA/CM-VR/GSR/28.04.2018:4P/8C