



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

Wednesday, the Seventh day of February Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Dr.Justice S.VIMALA
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.728 of 2018

IN

CRL A(MD) No.198 of 2017

BRIGHT

... PETITIONER / APPELLANT

Vs

THE STATE OF TAMIL NADU
THE INSPECTOR OF POLICE
ARALVAIMOZHY POLICE STATION,
KANYAKUMARI DISTRICT
(CRIME NO.366/2009)

... 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 imposed on the petitioner vide Judgment dated 26.04.2017 made in S.C.No.1 of 2011 on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil and release the Petitioner/Accused No.1 on 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 MR.J.ASHOK, Advocate for the petitioner and of Mr.K.S.DURAI PANDIAN, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

(Order of the Court was made by **S.VIMALA, J**)

The petitioner/appellant is the accused No.1 in S.C.No.1 of 2011 on the file of the Principal Sessions Court, Kanyakumari District at Nagercoil. He has been convicted for the offence under Sections 120(b) and 302 IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one year for offence under Section 302 IPC and to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for one year for offence under Section 120(b) IPC. Challenging the said conviction and sentence imposed, the petitioner 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 respondent and we have also perused the records carefully.

3. A perusal of the order passed by this Court, dated 23.10.2017 would go to show that the petition filed by this petitioner has been dismissed as not pressed and in the order, dated 23.10.2017, it has been specifically mentioned that according to the prosecution, the motive for the murder is that the deceased was a witness in a previous murder case pending against A1. The lower Court has relied upon the evidence of P.W.8, in which, it is stated that the deceased was not a witness at all in the previous murder case pending against the first accused.

4. It is submitted by the learned counsel for the petitioner that the previous murder case pending against the first accused has ended in acquittal. This fact is not disputed by the prosecution.

5. Considering the facts and circumstances of the case and considering the change in circumstances and that there are arguable points in favour of the petitioner, we are inclined to suspend the sentence of imprisonment alone imposed on the petitioner alone pending appeal.

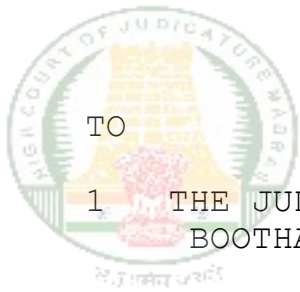
6. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner is directed to be enlarged on bail, on the following conditions:

The petitioner 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 Judicial Magistrate Court, Kanyakumari District at Boothapandy, and on further condition that the petitioner shall report before the committal Court at 10.30 a.m., on the first working day of every English Calendar Month, until further orders.

sd/-
07/02/2018

/ TRUE COPY /

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



TO

1 THE JUDICIAL MAGISTRATE,
BOOTHAPANDY, KANYAKUMARI DISTRICT

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT
NAGERCOIL

3 THE PRINCIPAL SESSIONS JUDGE,
KANYAKUMARI DISTRICT AT
NAGERCOIL

4 THE INSPECTOR OF POLICE
ARALVAIMOZHY POLICE STATION,
KANYAKUMARI DISTRICT

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

6 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI

+1. C.C. to M/S.J.ASHOK Advocate SR.No.2086

RR

JAM/08/02/2018/CM-VR/ SAR 3 / 3P-8C

ORDER

IN

CRL MP (MD) No.728 of 2018

IN

CRL A (MD) No.198 of 2017

Date :07/02/2018