



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

Monday, the Twenty Sixth 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.10007 of 2017

IN

CRL A(MD) No.324 of 2016

P.KARTHICK

... APPELLANT/ACCUSED-A8

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
CBCID POLICE STATION, MADURAI CITY, MADURAI
IN CRIME NO.2539/2005,
MATHICHIYAM POLICE STATION,
MADURAI.

... RESPONDENT/COMPLAINANT

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 petitioners by the Learned IV Additional District and Sessions Judge, Madurai in S.C.No.403/2010 dated 28/01/2016 and release the petitioners on bail pending disposal of the above Criminal Appeal 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 P.ANDIRAJ, Advocate for the petitioner and of MR.R.ANANDHA RAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

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

This Miscellaneous Petition is filed by the appellant / A8, seeking to suspend the sentence imposed against him in S.C.No.403 of 2010 on 28.01.2016 by the learned IV Additional District and Sessions Judge, Madurai and enlarge him on bail, pending disposal of Crl.A.(MD) No.324 of 2017.

2. The petitioner is A8 in S.C.No.403/2010, who has been convicted and sentenced to undergo imprisonment as follows:



Rank	Offences	Sentence, Imprisonment and Default Punishment
A8	Section 302 IPC	Life Imprisonment with fine of Rs.2000/- in default to undergo 3 months Simple Imprisonment.
	Section 148 IPC	To pay a fine of Rs.1000/- in default to undergo one month Simple Imprisonment
	Section 449 IPC	Ten Years Rigorous Imprisonment with fine of Rs.2000/- in default to undergo three months Simple Imprisonment (the sentences to run concurrently)

Contending that excepting A8, all other accused persons have been acquitted by the Trial Court and that the sentence as against A8 is unsustainable, illegal and it is liable to be set aside, the present petition seeking suspension of the sentence has been filed .

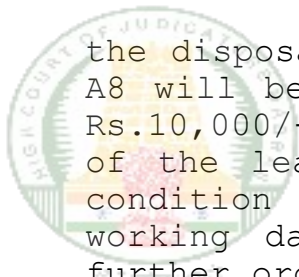
3. The case of the prosecution is that on 16.12.2005 at about 21:00hrs, A8 to A12 armed with deadly weapons entered into the office room of one Gandhi (Proprietor of Vaigai TV) and hacked him to death on the spot by inflicting cut injuries on various parts of his body and based on the complaint preferred by the younger brother of the deceased, the present case has been registered.

4. The learned counsel appearing for the petitioner / A8 would submit that the complaint did not name this accused as an offender and the complaint did not give the description of this petitioner and therefore, there is no basis to hold this accused guilty. It is also contended that though the A8 was arrested on 11.06.2008, the identification parade was conducted only on 05.09.2008, i.e., three months from the date of arrest and therefore, the identification parade is not authentic and it cannot be construed as a reliable evidence. It is further submitted that the recovery of M.O.1 (knife) is highly improbable on the ground that it has been allegedly recovered from the possession of A8 after a lapse of three years.

5. The learned Additional Public Prosecutor would submit that based on the evidence and material documents, the trial Court has rightly convicted the accused, which requires no interference by this Court and therefore, the present petition will have to be dismissed.

6. We are constrained to consider this application, as the counsel for defacto complainant has sought for adjournment after the arguments were heard on the side of other accused for nearly two hours. The efforts for adjournment may go on and we feel appropriate to consider the suspension in the light of the arguments heard in support of the counsel for the accused persons.

<https://hcservices.ecourts.gov.in/hcservices/>
7. In view of this petition is ordered and the sentence imposed against the petitioner / A8 in S.C.No.403 of 2010 by the learned IV Additional District and Sessions Judge, Madurai is suspended till



the disposal of Criminal Appeal No.324 of 2016 and the petitioner / A8 will be released on bail on his executing a bond for a sum of Rs.10,000/- and two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Madurai and on further condition that he shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m until further orders.

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sd/-
26/03/2018

/ TRUE COPY /

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

TO

- 1 THE IV ADDITIONAL DISTRICT SESSIONS JUDGE, MADURAI.
 - 2 THE JUDICIAL MAGISTRATE NO.II, MADURAI.
 - 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT
 - 4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 5 THE INSPECTOR OF POLICE,
CBCID POLICE STATION, MADURAI CITY, MADURAI,
MATHICHIYAM POLICE STATION, MADURAI.
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S P.ANDIRAJ Advocate SR.No.4842

ORDER
IN
CRL MP(MD) No.10007 of 2017
IN
CRL A(MD) No.324 of 2016
Date :26/03/2018

MKV-MM-PN-SAR 1/28.3.2018/3P-8C