



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

Monday, the Twenty Ninth day of January 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.11513 of 2017

IN

CRL A(MD) No.508 of 2017

1 PANDI,
2 DEVA @ DEVARAJ, ... PETITIONERS/APPELLANTS

Vs

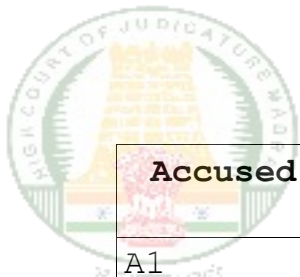
STATE REP BY
THE INSPECTOR OF POLICE,
THONDI POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.188 OF 2016. ... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the Sentence of Imprisonment imposed by the Additional District and Sessions Court, Ramanathapuram in S.C.No.48 of 2017 by the Judgment dated 04.10.2017, enlarge the petitioner/appellant on bail, pending disposal of the above and 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.KARUPPASAMY PANDIAN for M/S.J.VIJAYARAJA, Advocate for the petitioners and of MR.K.S.DURAI PANDIAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

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

The petitioners/appellants are arrayed as A1 and A2 in S.C.No.48 of 2017 on the file of learned Additional District and Sessions Court, Ramanathapuram. The petitioners/appellants have been convicted and sentenced as follows:



Accused	Penal provisions	Punishment
A1	302 r/w 34 IPC	To undergo imprisonment for life with fine of Rs.25,000/-, in default, to undergo simple imprisonment for two years
A2	302 IPC	To undergo imprisonment for life with fine of Rs.50,000/-, in default, to undergo simple imprisonment for three years

Challenging the said conviction and sentence imposed, the petitioners have come up with this appeal. Pending appeal, they seek suspension of the substantive sentence of imprisonment imposed on them.

2. We have heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent and we have also perused the records carefully.

3. According to the case of the prosecution, the deceased has lent a sum of Rs.5,000/- to the first accused and as it is not paid, the first accused was in enmity with the deceased and this has led to the occurrence.

4. The learned counsel for the petitioners/appellants would submit that it is only the first accused, who had gone to the hospital to admit the deceased and therefore, he could not have any motive to commit murder of the deceased.

5. Considering the motive alleged and the part played by the first accused in admitting the deceased into the hospital, which is also spoken to by the Doctor, this Court is inclined to grant suspension of sentence only to the first petitioner/A1.

6. So far as A2 is concerned, the learned counsel for the petitioners/appellants would submit that the arrest, confession and the consequent recovery everything is doubtful and therefore, it is a case for suspension of sentence for A2 also. However, this Court is not inclined to grant suspension of sentence for A2, as arrest and confession alone cannot be the criteria to find out the culpability on the part of the second accused. Accordingly, this petition is dismissed in respect of the 2nd petitioner/A2.

7. Considering the facts and circumstances of the case and considering the fact that there are arguable points in favour of the first petitioner, we are inclined to suspend the sentence of imprisonment alone imposed on the first petitioner pending appeal. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the first petitioner alone is suspended



and the first petitioner is directed to be enlarged on bail, on the following conditions:

The first 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 Additional District and Sessions Judge, Ramanathapuram and on further condition that the petitioner shall report before the concerned Court at 10.30 a.m., on the first working day of every English Calender Month, until further orders.

sd/-
29/01/2018

/ TRUE COPY /

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

TO

- 1 THE ADDITIONAL DISTRICT
AND SESSIONS COURT, RAMANATHAPURAM
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI
- 3 THE INSPECTOR OF POLICE,
THONDI POLICE STATION, RAMANATHAPURAM DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.J.VIJAYARAJA Advocate SR.No.1530

ORDER
IN
CRL MP(MD) No.11513 of 2017
IN
CRL A(MD) No.508 of 2017
Date :29/01/2018

SMA/CM-VR/SAR-2/31.01.2018:3P/6c