



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

Wednesday, the Seventeenth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Dr.Justice S.VIMALA
and

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.11722 of 2017

IN

CRL A(MD) No.528 of 2017

METHA DIWAN

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
GANESH NAGAR POLICE STATION,
PUDUKKOTTAI TOWN AND DISTRICT.
CRIME NO.98 OF 2014.

... RESPONDENT/ RESPONDENT

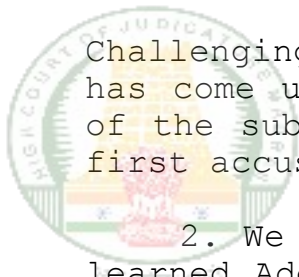
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence imposed on the petitioner passed by the Additional District and Sessions Judge and E.C.Court, Pudukkottai in S.C.No.124 of 2014 dated 19.05.2015 pending disposal of the above Criminal Appeal before this Court 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.K.BAALASUNDHARAM, Advocate for the petitioner and of K.S.DURAIPANDIAN, 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 petitioner/appellant is the accused No.2 in S.C.No.124 of 2014 on the file of learned Additional District & Sessions Judge ad EC Court, Pudukkottai. He has been convicted and sentenced as follows:

Accused	Penal provisions	Punishment
A2	120(B) IPC	To undergo rigorous imprisonment for two years.
A2	302 r/w 34 IPC	To undergo imprisonment for life with fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for one year.



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 and the first accused having died already.

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

3. The learned counsel for the petitioner/accused would submit that the incident itself, as per the case of the prosecution, has taken place at a time, when the deceased had gone to the house of one Danalakshmi at mid night and attempted to take her away from the house, despite the protest made by her parents. It is stated that the evidence of the prosecution is very flimsy and the petitioner/second accused is not at all connected with this incident. It is also pointed out that the Judgment itself has described the pathetic condition, in which, the petitioner/second accused is now placed on account of health hazards and he is a law abiding citizen having surrendered before the Village Administrative Officer on 17.03.2014. In paragraph Nos.38 and 39 of the Judgment, the trial Court has described the condition, in which, the petitioner/second accused had been at the time (during 2015) and his continued incarceration at jail will be detrimental to his health

4. Considering the role of the petitioner/second accused and also considering the health condition of the petitioner/second accused, we are inclined to suspend the sentence of imprisonment alone imposed on the petitioner/second accused, pending appeal.

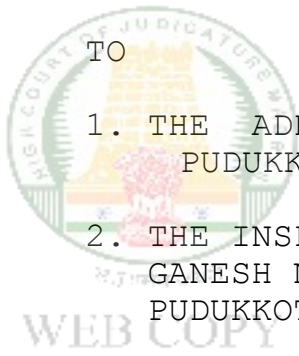
5. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/second accused is suspended and the petitioner/second accused is directed to be enlarged on bail, on the following conditions:

6. The petitioner/second accused 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 learned Additional District & Sessions Judge and EC Court, Pudukkottai and on further condition that the petitioner/second accused shall report before the committal Court at 10.30 a.m., on the first working day of every English Calendar Month, until further orders. Registry to prepare the typed set of papers and list the appeal for final hearing.

sd/-
17/01/2018

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



TO

1. THE ADDITIONAL DISTRICT & SESSIONS JUDGE AND EC COURT,
PUDUKKOTTAI.
2. THE INSPECTOR OF POLICE,
GANESH NAGAR POLICE STATION,
PUDUKKOTTAI TOWN AND DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.K.BAALASUNDHARAM Advocate SR.No.785

ORDER
IN
CRL MP (MD) No.11722 of 2017
IN
CRL A (MD) No.528 of 2017
Date :17/01/2018

MS/PM-PN/SAR.4/19.01.2018/3P.6C