



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

Friday, the Ninth day of February Two Thousand Eighteen

PRESENT

The Hon`ble Dr.Justice S.VIMALA
and

The Hon`ble Mrs.Justice T.KRISHNAVALLI

Crl.M.P.(MD) Nos.6245 & 6251 of 2017
in
Crl.A.(MD) Nos.249 & 252 of 2017

NATARAJAN

... PETITIONER/APPELLANT/ACCUSED NO.9
IN BOTH THE PETITIONS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
UTTUMALAI POLICE STATION,
TIRUNELVELI DISTRICT.

... RESPONDENT/ RESPONDENT/ COMPLAINANT
IN BOTH THE PETITIONS

CRIME NO.129/2011.

IN Crl.M.P.(MD) No.6245 of 2017
in Crl.A.(MD) No.249 of 2017

CRIME NO.130/2011

IN Crl.M.P.(MD) No.6251 of 2017
in Crl.A.(MD) No.252 of 2017

PRAYER IN IN Crl M.P(MD) No.6245 of 2017 in Crl.A.(MD)No.249 of 2017

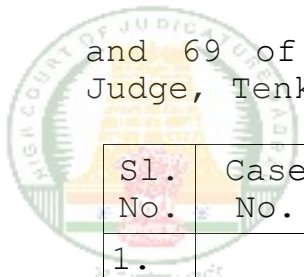
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence by granting bail of in S.C.No.68/2012 dated 07/06/2017 on the file of the Additional Sessions Judge at Tenkasi, Tirunelveli district till the disposal of the Crl.A.

Prayer in CRL MP(MD). 6251/ 2017 in Crl.A.(MD) No.252 of 2017:-

To suspend the sentence by granting bail of in S.C.No.69/2012 dated 07/06/2017 on the file of the Additional Sessions Judge at Tenkasi, Tirunelveli district till the disposal of the Crl.A.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.V.KATHIRVELU, Senior Counsel for M/S.K.PRABHU, Advocate for the petitioner in both the petiitons and of M/S.K.S.DURAIPANDIN, Additional Public Prosecutor on behalf of the Respondent in both the petitions, the court made the following order:-

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



and 69 of 2012 respectively, by the learned Additional Sessions Judge, Tenkasi. The conviction and sentence is as follows:

Sl. No.	Case No.	Offence	Conviction and Sentence
1.	S.C.No .68 of 2012	Section 147	Simple Imprisonment for Two months
2.			
3.		Section 148	Simple Imprisonment for Four months
4.		Section 341	Simple Imprisonment for One month
5.		Section 120B	Imprisonment for life with fine of Rs.500/-
		Section 302 r/w 149	Imprisonment for life with fine of Rs.500/-
6.	S.C.No .69 of 2012	Section 147	Simple Imprisonment for Two months
7.			
8.		Section 148	Simple Imprisonment for Four months
9.		Section 452	Simple Imprisonment for Six months
10		Section 120 (B)	Imprisonment for life with fine of Rs.500/-
		Section 302 r/w 149	Imprisonment for life with fine of Rs.500/-

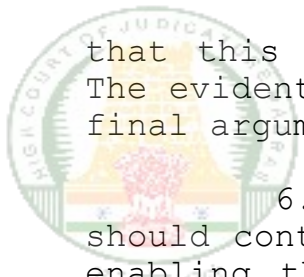
2. Heard both sides and perused the grounds of appeal.

3. The husband of A10 was murdered by the deceased Selvaraj and two murders, for which the appellant and nine others were prosecuted pertain to the murder of the deceased Selvaraj and later, on account of the murder of the wife of the deceased Selvaraj, namely, Thangamani. It is claimed to be a retaliation murder, by the prosecution.

4. The contention of the learned counsel for the appellant is that the name of this accused did not find place in the First Information Report and the entire prosecution case rests upon the evidence of PW1 and that the presence of PW1 in the scene of occurrence is doubtful, as he did not attempt to save the deceased, even though he is related as nephew of the deceased.

4.1. The learned counsel for the appellant would submit that having regard to the allegation made and the role played by A9, he must be granted suspension of sentence. The allegation is that he kicked the deceased with legs and not with any weapons.

5. We are not able to accept the contention, because of the facts that he was one among the persons in a group in which some of the accused were armed with deadly weapons and the allegation is



that this accused is also accompanied those persons with weapons. The evidentiary value of this evidence has to be seen at the time of final arguments.

6. It is not necessary that the First Information Report should contain all the names of the accused. FIR is only a document enabling the prosecution to commence the investigation. It is not the quantity of witnesses, but only the quality of evidence that matters. Just because, PW1 is the nephew, it cannot be rejected on the sole ground that he is a relative, but his evidence requires careful scrutiny.

7. Under such circumstances, this Court is not inclined to suspend the sentence and these petitions are dismissed. However, it is open to the defence to argue the case on merits at any time.

sd/-
09/02/2018

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

TO

1. THE ADDITIONAL SESSIONS JUDGE, TENKASI,
TIRUNELVELI DISTRICT.
 2. THE INSPECTOR OF POLICE,
UTTUMALAI POLICE STATION, TIRUNELVELI DISTRICT.
 3. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2. C.C. to M/S.K.PRABHU Advocate SR.Nos.2257,2258

ORDER IN
Crl.M.P.(MD) Nos.6245 & 6251 of 2017
in
Crl.A.(MD) Nos.249 & 252 of 2017
Date :09/02/2018

MS/CM-VR/SAR.2/09.02.2018/2P.7C