



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

WEB COPY

Crl.M.P.(MD) Nos.6928 and 6929 of 2017
in Crl.A.(MD) Nos.254 and 255 of 2017

1 MADASAMY
2 ELANGO

... PETITIONER/ APPELLANTS
IN BOTH THE PETITIONS

Vs

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

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

(CRIME NO.129/2011)

IN Crl.M.P(MD) No.6928 of 2017
in Crl.A.(MD) No.254 of 2017

(CRIME NO.130/2011)

IN Crl.M.P(MD) No.6929 of 2017
in Crl.A.(MD) No.255 of 2017

Prayer in Crl.M.P(MD)No.6928 of 2017 in Crl.A.(MD) No.254 of 2017:-

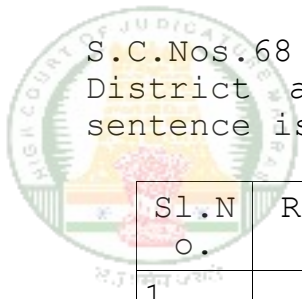
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioners on bail by Suspending the Sentence imposed upon them in S.C.No.68 of 2012 on the file of the Learned Additional District and Sessions Judge, (Fast Track), Tenkasi, Tirunelveli District dated 07.06.2017 pending disposal of the main Criminal Appeal.

Prayer in Crl.M.P(MD)No.6929 of 2017 in Crl.A.(MD)No.255 of 2017:-

To enlarge the petitioners on bail by suspending the sentence imposed upon them in S.C.No.69 of 2012 on the file of the Learned Additional District and Sessions Judge, (Fast Track) Tenkasi, Tirunelveli District, dated 07.06.2017 pending disposal of the main Criminal Appeal.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.A.THIRUVADI KUMAR, Advocate for the petitioner in both the petitions and of M/S.K.S.DURAI PANDIAN, 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.,**)



S.C.Nos.68 and 69 of 2012 respectively, by the learned Additional District and Sessions Judge (FTC), Tenkasi. The conviction and sentence is as follows:

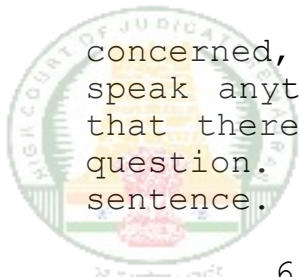
Sl.N o.	Rank	Offence	Conviction and Sentence
1.	A6 & A7 in S.C.68 of 2012	Section 147 IPC	Simple Imprisonment for Two months
2.			
3.		Section 148	Simple Imprisonment for Four months
4.		Section 341	Simple Imprisonment for One Month
5.		Section 120B	Imprisonment for life with fine of Rs.500/-
		Section 302 r/w 109	Imprisonment for life with fine of Rs.500/-
1.	A6 in S.C.69 of 2012	Section 147 IPC	Simple Imprisonment for Two months
2.			
3.		Section 120 (b)	Imprisonment for life with fine of Rs.500/-
		Section 302 r/w 109	Imprisonment for life with fine of Rs.500/-
1.	A7 in S.C.69 of 2012	Section 147 IPC	Simple Imprisonment for Two months
2.			
3.		Section 148	Simple Imprisonment for Four months
4.		Section 452	Simple Imprisonment for Six months with fine of Rs.300
		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 learned counsel for both the accused would submit that the names of both the accused (A6 & A7) do not find place in the FIR and the overtact of A7 has spoken to by the PW1 before the Court is an improvement and therefore, both of them are entitled to suspension of sentence.

5. It is not necessary that the FIR should contain the entire details. The omission has to be considered in the light of the surrounding circumstances. But so far as the case of A6 is



concerned, even PW1, who is the sole eyewitness in the case did not speak anything about the involvement of A6. Therefore, it appears that there is no material at all to connect A6 with the crime in question. Under such circumstances, A6 is granted suspension of sentence.

6. In fine, these petitions are partly allowed and the sentence imposed against A6 in S.C.Nos.68 and 69 of 2012 by the learned Additional District and Sessions Judge (FTC), Tenkasi, Tirunelveli is alone suspended till the disposal of Criminal Appeal Nos.254 and 255 of 2017 and the 1st petitioner / A6 will be released on bail on executing a bond for a sum of Rs.10,000/- each and two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Tenkasi and on further condition that the 1st petitioner / A6 shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m until further orders.

These petitions as against the 2nd petitioner / A7 are dismissed.

sd/-
09/02/2018

/ TRUE COPY /

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

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK), TENKASI, TIRUNELVELI DISTRICT.
 2. THE JUDICIAL MAGISTRATE, TENKASI.
 3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
 4. THE INSPECTOR OF POLICE,
UTHUMALAI POLICE STATION, TIRUNELVELI DISTRICT.
 5. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2. C.C. to M/S.A.THIRUVADI KUMAR Advocate SR.Nos.2237,2238

ORDER IN
Crl.M.P.(MD) Nos.6928 and 6929 of 2017
in Crl.A.(MD) Nos.254 and 255 of 2017
Date :09/02/2018