



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

Tuesday, the Tenth day of July Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice C.T.SELVAM
and
The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) Nos.9076,9236 of 2017
IN CRL A(MD) Nos.400, 404 of 2017
and
CRL MP(MD) Nos.3046,2827 of 2018
IN CRL A(MD) Nos.49, 175 of 2018

GANESAN
(NOW CONFINED IN CENTRAL
PRISON, MADURAI HAVING C.P.NO.5671)

... PETITIONER/APPELLANT IN
CRL MP(MD) No.9076 of 2017
IN CRL A(MD) No.400 of 2017

MUTHU @ AUTO MUTHU @ MUTHUKUMAR
(NOW CONFINED AT CENTRAL
PRISON, MADURAI

...PETITIONER/APPELLANT/
ACCUSED No.5 IN
CRL MP(MD) No.9236 of 2017
IN CRL A(MD) No.404 of 2017

SASIKUMAR
(NOW CONFINED AT CENTRAL
PRISON, MADURAI

...PETITIONER/APPELLANT/
ACCUSED No.1 IN
CRL MP(MD) No.3046 of 2018
IN CRL A(MD) No.49 of 2018

GANESAN @ PUSHPARAJ

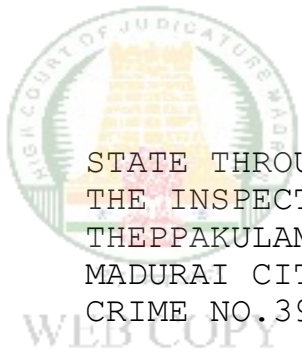
...PETITIONER/APPELLANT/
ACCUSED No.2 IN
CRL MP(MD) No.2827 of 2018
IN CRL A(MD) No.175 of 2018

Vs

STATE THROUGH
THE INSPECTOR OF POLICE
THEPPAKULAM POLICE STATION,
CRIME NO.391/2013,
MADURAI DISTRICT

<https://hcservices.ecourts.gov.in/hcservices/>

... RESPONDENT/RESPONDENT IN
CRL MP(MD) No.9076 of 2017
IN CRL A(MD) No.400 of 2017



STATE THROUGH
THE INSPECTOR OF POLICE
THEPPAKULAM POLICE STATION,
MADURAI CITY, MADURAI
CRIME NO.391/2013,

... RESPONDENT/RESPONDENT/
COMPLAINANT IN
CRL MP(MD) No.9236 of 2017
IN CRL A(MD) No.404 of 2017

THE INSPECTOR OF POLICE
B3, THEPPAKULAM POLICE STATION,
MADURAI
CRIME NO.391/2013,

... RESPONDENT/RESPONDENT/
COMPLAINANT IN
CRL MP(MD) No.3046 of 2018
IN CRL A(MD) No.49 of 2018

STATE REP BY
THE INSPECTOR OF POLICE
B3, THEPPAKULAM POLICE STATION,
MADURAI
CRIME NO.391/2013,

... RESPONDENT/RESPONDENT/
COMPLAINANT IN
CRL MP(MD) No.2827 of 2018
IN CRL A(MD) No.175 of 2018

Prayer in CRL MP(MD) No.9076 of 2017 IN CRL A(MD) No.400 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 imposed on the petitioner in S.C.No.399/2014 dated 10/08/2017 by the IV Additional District and Sessions Judge, Madurai pending disposal of the above Crl.A

Prayer in CRL MP(MD). 9236/ 2017 IN CRL A(MD) No.404 of 2017:

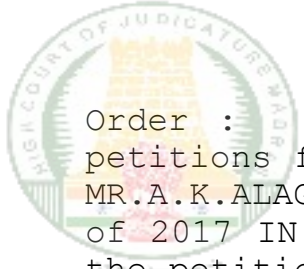
To suspend the sentence imposed in Judgement dated 10/08/2017 passed in S.C.No.399/2014 on the file of the IV Additional District and Sessions Court, Madurai and enlarge him on bail pending disposal of the above Crl.A.

Prayer in CRL MP(MD). 3046/ 2018 IN CRL A(MD) No.49 of 2018 :

To suspend the sentence imposed by the Honourable IV Additional District Sessions Court, Madurai in S.C.No.399/2014 dated 10/08/2017 and release the petitioner on bail pending disposal of the above Crl.A.

Prayer in CRL MP(MD). 2827/ 2018 IN CRL A(MD) No.175 of 2018:

To suspend the sentence imposed on the petitioner/appellant / accused No. 2 by the Learned IV Additional district and Sessions Judge, Madurai in S.C.No. 399/2014 dated 10.08.2017 and enlarge me on bail, pending disposal of the above Criminal Appeal



Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of MR.A.K.ALAGARSAMY, Advocate for the Petitioner in CRL MP(MD) No.9076 of 2017 IN CRL A(MD) No.400 of 2017 and MR.J.LAWRANCE, Advocate for the petitioner in CRL MP(MD). 9236/ 2017 IN CRL A(MD) No.404 of 2017 and MR.M.JEGADEESH PANDIAN for MR.P.BALASUBRAMANIAN, Advocate for the petitioner in CRL MP(MD). 3046/ 2018 IN CRL A(MD) No.49 of 2018 and MR.VEERA KATHIRAVAN, Senior counsel for MR.R.MANICKARAJ, Advocate for the petitioner in CRL MP(MD). 2827/ 2018 IN CRL A(MD) No.175 of 2018 and of MR.S.CHANDRASEKAR, Additional Government Pleader for the respondent in all the petitions, the court made the following order:-

[Order of the Court passed by **C.T.SELVAM, J.**]

Petitioners are arrayed as accused Nos.4, 5, 1 and 2 in S.C.No.399 of 2014, on the file of the Learned IV Additional District and Sessions Judge, Madurai, and under judgment dated 10.08.2017, they have been convicted for the offences under Sections 364(A) r/w 149, 386 r/w 149, 395 r/w 149 and 506(ii) r/w 149 I.P.C. and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- each, in default, to undergo three months S.I. for offence under Section 364(A) r/w 149 I.P.C., and sentenced to undergo 5 years R.I. and to pay a fine of Rs.5,000/- each, in default, to undergo three months S.I. for the offence under Section 386 r/w 149 I.P.C. and sentenced to undergo 5 years R.I. and to pay a fine of Rs.5,000/- each, in default, to undergo three months S.I. for the offence under Section 395 r/w 149 I.P.C. and sentenced to undergo simple imprisonment for 2 months for offence under Section 506(ii) r/w 149 I.P.C. and A1 was convicted under Section 341 r/w 34 I.P.C. and sentenced to undergo 1 month S.I. and to pay a fine of Rs.500/-, in default, to undergo one month S.I. Petitioners have moved the above miscellaneous petitions, seeking relief of suspension of sentence pending appeals.

2. Heard learned counsel for petitioners and learned Additional Public Prosecutor appearing for respondent.

3. The case of the prosecution is that all the accused have conspired to kidnap P.W.1 - Janarthanan and to extort money from him, pursuant to which on 18.04.2013, at about 10.00 p.m. A1 and A6 waylaid P.W.1 and kidnapped him with the help of A2 to A5 and A7, released him after extracting a sum of Rs.15 lakhs from his wife, took away his one Acer Laptop, 2 Cellphone, Rexin Bag containing Rs.30,000/- and threatened to kill him if he lodge a complaint. A case was registered on 20.04.2013 and the same on completion of investigation, filing of final report and committal came up for trial before learned IV Additional District and Sessions Judge, Madurai in S.C.No.399 of 2014 and under judgment dated 10.08.2017, Accused was convicted and sentenced as stated above.

<https://hcservices.ecourts.gov.in/hcservices/>

4. In passing orders in Crl.M.P. (MD) No.8797 of 2017 on



14.03.2018, this Court has observed thus:

"3. According to the petitioner/appellant/accused, he is the person, who is physically challenged the 90% disability, even as certified by Assistant Surgeon Government Head Quarters Hospital, Tirupur. It is issued for conferment of benefit under the enactment of the 'Persons with Disabilities Act'.

4. Under the said circumstances, it is contended that a person, with 90% disablement is not likely to drive, as alleged by the prosecution and the entire prosecution is based upon the fact that the petitioner/appellant/accused was driving the vehicle at the time of accident and that it cannot be true."

5. Heard learned counsel for petitioners and learned Additional Public Prosecutor for respondent.

6. It is the prosecution case that the vehicle used for abducting P.W.1 was driven by A4. Taking into consideration the observation herein above reproduced, that the F.I.R. in respect of the occurrence of 18.04.2013 at 10.15 p.m. has been registered on 20.04.2013 at 8.15 p.m., subsequent to the release of P.W.1 by his abductors on 19.04.2013 at 5.00 p.m. and further such F.I.R. has reached the Court only on 23.04.2013 i.e. three days after registration of the case, that while in evidence P.W.1 has admitted to earlier knowing the first accused in person as the carpenter engaged on work in his Marriage Hall, but A1 has not been named in the F.I.R. as also other submission of the learned counsel to the effect that there is no evidence whatsoever in support of the prosecution case that P.W.1 has been abducted, this Court considers it appropriate to suspend the substantive portion of sentence imposed on petitioners.

7. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioners / accused Nos.1, 2, 4 & 5 and they are directed to be enlarged on bail on condition that they shall execute a bond in a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties each for a like sum to the satisfaction of the learned IV Additional District and Sessions Judge, Madurai, and on further condition that petitioner shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-

10/07/2018

/ TRUE COPY /

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



TO

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

+1. C.C. to MR.A.K.ALAGARSAMY, Advocate SR.No.12647
+1 cc to MR.J.LAWRANCE, Advocate SR.No.12719
+1 cc to MR.P.BALASUBRAMANIAN, Advocate SR.No.12597
+1 cc to MR.M.JEGADEESH PANDIAN, Advocate SR.No.12707

ORDER

IN

CRL MP(MD) Nos.9076,9236 of 2017
IN CRL A(MD) Nos.400, 404 of 2017
and

CRL MP(MD) Nos.3046,2827 of 2018
IN CRL A(MD) Nos.49, 175 of 2018

Date :10/07/2018

SMA/VR/GSR/12.07.2018:5P/9C