



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

Thursday, the Eighteenth 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.9753 of 2017
IN
CRL A(MD) No.425 of 2017

1 SIVASANKARAN
2 VIJAYAKUMAR
3 SATHAIAH

... PETITIONER/APELLANTS/
ACCUSED No.8, 9 & 10

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE,
NAINARKOVIL POLICE STATION,
RAMANATHAPURAM DISTRICT,
CRIME NO.117/2009

... RESPONDENT/RESPONDENT/
COMPLAINANT

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

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence imposed on the petitioners/ appellants/ accused in S.C.No.3/2011 dated 31/08/2017 on the file of the Additional District Court (Fast Track Court), Paramakudi and enlarge them on bail till the disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.VENKATESWARAN for M/S.S.SIVABALAN, Advocate for the petitioners and of MR.K.S.DURAIPANDIAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Miscellaneous Petition is filed by the petitioners/A8 to A10 to suspend the sentence imposed against the petitioners in S.C.No.3 of 2011 on 31.08.2017 by the learned Additional District Court (Fast Track Court), Paramakudi and enlarge them on bail pending disposal of Crl.A.(MD) No.425 of 2017.



2. The petitioners are A8 to A10 in S.C.No.3 of 2011, who have been convicted and sentenced to undergo imprisonment as follows:

Sl.No	Rank	Offences	Sentence, Imprisonment and Default Punishment
1.	A8 to A10	Section 147 IPC	One year simple imprisonment and to pay a fine of Rs.500/- in default to undergo one month simple imprisonment each
2.			
3.			
4.		Section 148 IPC	Three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo six months rigorous imprisonment each.
		Section 324 IPC	Three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo six months rigorous imprisonment each.
		Section 302 r/w 149 IPC	Life Imprisonment and to pay a fine of Rs.5000/- in default to undergo two years rigorous imprisonment each.
Sl.No	Rank / Offences		Sentence, Imprisonment and Default Punishment
1.	A9 / Section 326 IPC		Five years rigorous imprisonment and to pay a fine of Rs.3000/- in default to undergo one year rigorous imprisonment each.

Under the said circumstances, the present petition has been filed seeking suspension of the sentence awarded.

3. The case of the prosecution is that due to previous enmity, on 23.12.2009 at Aranmanai Bus Stop in Ramanathapuram Town, these accused persons / A8 to A10 surrounded the deceased and at that time, the first accused had indiscriminately attacked the deceased over his head with Aruval and caused his death.

4. It is seen that A1 has not filed any application seeking suspension of sentence along with the main Criminal Appeal and though A2 to A10 have filed petitions for suspension of sentence along with the respective Criminal Appeals, the learned counsel appearing for the petitioners / accused would submit that he is going to advance his argument in respect of the petitioners / A8 to A10 in Crl.M.P. (MD) No.9753 of 2017 alone and in the said petition, he is not pressing against A9 and A10. **Hence, this petition against A9 & A10 is dismissed.**



4.1. He would further submit that though A8 has been implicated in this case, the participation of A8, who is aged about 90 years, is highly doubtful and even assuming that he was present at the scene of occurrence, his role would not have been an active role so as to enable A1 to cause the death of the deceased.

5. The learned Additional Public Prosecutor opposed this petition stating that on the basis of the incriminating materials against A1 to A10, the trial Court has rightly convicted them, by acquitting A11 from the case and no accused is entitled to the grant of suspension of sentence and therefore, the petition is liable to be dismissed. However, he has not stoutly refuted the submission of the learned counsel for the petitioners that A8 is 90 years old.

6. In the light of the submissions made on either side hereinabove; considering the age of A8 (as his presence inside or outside the prison will not make much difference having regard to the age) and taking into account the grounds of appeal, we are inclined to grant suspension of the sentence to the 1st petitioner / A8 in Crl.M.P.(MD) No.9753 of 2017 alone.

7. In fine, Crl.M.P.(MD) No.9753 of 2017 is ordered and the sentence imposed against the 1st petitioner / A8 in S.C.No.3 of 2011 by the learned Additional District Court (Fast Track Court), Paramakudi is suspended till the disposal of Criminal Appeal No.425 of 2017 and the 1st petitioner / A8 will be released on bail on his executing a bond for a sum of Rs.10,000/- and two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Paramakudi and on further condition that he shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m until further orders.

8. For the sake of brevity, it is reiterated that this petition against the petitioners 2 & 3 / A9 & 10 is dismissed.

sd/-
18/01/2018

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

TO

1 THE ADDITIONAL DISTRICT JUDGE,
FAST TRACK COURT, PARAMAKUDI



2 THE JUDICIAL MAGISTRATE, PARAMAKUDI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM

4 THE INSPECTOR OF POLICE,
NAINARKOVIL POLICE STATION,
RAMANATHAPURAM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI

6 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S. S. SIVABALAN Advocate SR.No.882

ORDER
IN
CRL MP (MD) No.9753 of 2017
IN
CRL A (MD) No.425 of 2017
Date :18/01/2018

PK/CM-VR/SAR-1/19.01.2018 : 4P/8C