



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

Tuesday, the Twenty Sixth day of June 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) No.2589 of 2018
IN
CRL A(MD) No.159 of 2018

SIVAPANDY,

... PETITIONER/APPELLANT

Vs

STATE THRO
THE INSPECTOR OF POLICE,
C2, SUBRAMANIPURAM (L&O) POLICE STATION,
MADURAI CITY.
(IN CRIME NO.684 OF 2014)

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to pass an INTERIM ORDER pending disposal of the Criminal Appeal, suspending the execution of sentence U/s.302,294(b) & 341 of IPC awarded on the petitioner vide the Judgment dated 14.02.2018, passed by the Learned IV Additional District Judge, Madurai in S.C.No.55 of 2015, and thereby to release him on bail to the satisfaction of the said Learned Trial Court.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.T.K.GOPALAN, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor for the Respondent the court made the following order:-

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

Petitioner is arrayed as accused in S.C.No.55 of 2015, on the file of the Learned IV Additional District and Sessions Judge, Madurai, and under judgment dated 14.02.2018, he has been convicted for the offences under Sections 294(b), 341 and 302 I.P.C. and sentenced to undergo life imprisonment and to



pay a fine of Rs.5,000/-, in default, to undergo one month S.I. for offence under Section 302 I.P.C., to pay a fine of Rs.1,000/-, in default, to undergo one month S.I. for offence under Section 294(b) I.P.C. and to pay a fine of Rs.500/-, in default, to undergo one month S.I. Petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.

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

3. The case of the prosecution is that when the deceased was sleeping at the pial of his house, on 16.07.2014 at about 5.30 p.m., the petitioner/accused, driven by earlier motive arising out of dispute over property came to the scene, cut his neck and caused his death. A case was registered on the same day 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.55 of 2015 and under judgment dated 14.02.2018, Accused was convicted and sentenced as stated above.

4.Learned counsel for the petitioner submits that according to the prosecution, the complaint leading to the registration of the F.I.R. received from P.W.1/wife of the deceased, allegedly was an eye-witness. P.W.6, another alleged eye-witness has spoken to the deceased lying in a pool of blood and the presence of the police at the scene before the deceased was shifted to the hospital in an ambulance. P.W.6 has further deposed that his statement was recorded and his signature obtained thereupon. The investigation officer P.W.20 has admitted to the presence of police personal at the scene before the deceased was shifted to the hospital. Learned counsel submits that the prosecution having no knowledge of the assailant have wrongly implicated the appellant.

5. Per contra, learned Additional Public Prosecutor, contended that the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. He strongly opposed to the grant of the relief of suspension of sentence to petitioner.

6.Considering the facts and circumstances of the case and the submission of both sides, this Court considers it appropriate to suspend the substantive portion of sentence imposed on petitioner.

<https://hcmjcs.courts.gov.in/hcmjcs/>

7.Accordingly, the substantive sentence of imprisonment



alone is suspended in respect of petitioner / accused and he is directed to be enlarged on bail on condition that he 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/-
26/06/2018

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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 INSPECTOR OF POLICE,
C2, SUBRAMANIPURAM (L&O) POLICE STATION,
MADURAI CITY.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.T.K.GOPALAN Advocate SR.No.11357

SJ
GJM/PN/RNB/28.6.18-2P-6C

ORDER
IN
CRL MP (MD) No.2589 of 2018
IN
CRL A (MD) No.159 of 2018
Date :26/06/2018