



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

Monday, the Twenty Third day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice C.T.SELVAM
and

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP (MD) No.2678 of 2018

IN

CRL A (MD) No.164 of 2018

CHARLES

... APPELLANT / ACCUSED No.1

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
ARALVAIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT.
(IN CRIME NO.218 OF 2009).

... RESPONDENT / COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release me on bail pending disposal of this Criminal Appeal before this Honourable Court against the Judgment in S.C.No.76 of 2010 on the file of the Honourable Principal Sessions Judge, Kanyakumari at Nagercoil dated 06.02.2018.

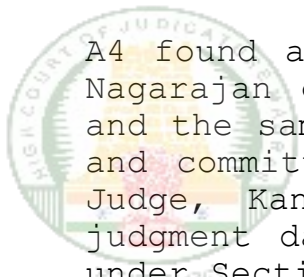
Order: This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.GANDHI, Advocate for M.DANIEL MANOHARAN, Advocate for the petitioner and of M/S.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

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

Petitioner is arrayed as accused No.1 in S.C.No.76 of 2010, on the file of learned Principal Sessions Judge, Kanyakumari @ Nagercoil, and under judgment dated 06.02.2018, he has been convicted for the offence u/s 302 I.P.C. and sentenced to life imprisonment and fine of Rs.1,000/-. Petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.

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

3. The prosecution case is that two weeks prior to the occurrence, the deceased Nagarajan had caused a cut injury to the face of A1 and had absconded. He was hiding near a grave yard. A1 to



A4 found and set upon him causing grievous injuries. As a result, Nagarajan died on 05.07.2009. A case was registered on 06.07.2009 and the same on completion of investigation, filing of final report and committal came up for trial before learned Principal Sessions Judge, Kanyakumari @ Nagercoil in S.C.No.76 of 2010 and under judgment dated 06.02.2016, petitioner/A1 was convicted for offence under Section 302 I.P.C.

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4.Learned counsel for petitioner submitted that out of three alleged eyewitnesses, the independent ones, namely, P.Ws.3 and 4 have turned hospital. P.W.1, the other eyewitness was a cousin brother of the deceased. His evidence is highly doubtful. His evidence is unnatural as he admits that after witnessing the occurrence he went home. The complaint has been preferred after a delay of 4 1/2 hours. The occurrence alledgedly has taken place at 10.30 p.m. on 05.07.2009. The investigation officer P.W.15 had not explained the delay. P.W.1 also is to be disbelieved since against the prosecution case of A1 causing single injury and A2 causing two injuries to the deceased, P.W.1 deposed that petitioner/A1 having caused four to five injuries to the deceased. Learned counsel for petitioner further submits that the petitioner is in incarceration from 06.02.2018 and presently is confined at Central Prison, Palayamkottai. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioner herein.

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.

7.Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner / accused No.1 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 learned Judicial Magistrate, Boothapandi, 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/-
23/04/2018

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TO

1 THE PRINCIPAL SESSIONS JUDGE,
KANYAKUMARI AT NAGERCOIL.

2 THE JUDICIAL MAGISTRATE,
BOOTHAPANDI,
KANYAKUMARI DISTRICT.

3 DO THROUGH THE CHEIF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

5 THE INSPECTOR OF POLICE,
ARALVAIMOZHI POLICE STATION,
KANYAKUMARI DISTRICT.

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

+1. C.C. to M/S.R.ALAGUMANI, Advocate SR.No.6879.

ORDER
IN
CRL MP (MD) No.2678 of 2018
IN
CRL A (MD) No.164 of 2018
Date :23/04/2018

SDS/CM:VR/RNB/25.04.2018/3P/8C