



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

Thursday, the Seventh 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.2812 of 2018

IN

CRL A(MD) No.173 of 2018

GOPAL,

... PETITIONER/APELLANT

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
WORAIYUR POLICE STATION,
TIRUCHIRAPPALLI.
(CRIME NO.477 OF 2014)

... RESPONDENT/RESPONDENT

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 upon the petitioner by the Principal Sessions Judge, Trichy in S.C.No.144 of 2015 dated 11.03.2016 pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.LENIN KUMAR, Advocate for the petitioner and of MR.R.ANNADURAI, Additional Public Prosecutor for the Respondent the court made the following order:-

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

Petitioner is arrayed as the sole accused in S.C.No.144 of 2015 on the file of Principal Sessions Judge, Trichy and under judgment dated 11.03.2016 he has been convicted and sentenced as follows:

Offence	Sentence
302 IPC	Life imprisonment and to pay fine of Rs.1,000/- i/d to undergo R.I. for one year.
506(ii) IPC	R.I. for a period of 7 years and to pay fine of Rs.1,000/- i/d to undergo R.I. for 3 months

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Petitioner has come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.



2.The case of the prosecution is that on the date of occurrence, P.W.1 demanded return of a sum of Rs.1000/- from the deceased, his cousin brother, which sum had been lent and the deceased informed that the accused owed him a sum of Rs.1000/- and that they could both approached the accused and on the accused returning such sum, the same would be handed over to P.W.1. P.W.1 and the deceased went in search of the accused and eventually they found him in his residence and when they demanded payment, a quarrel arose and in course thereof, the accused caused a cut injury on the deceased using an Aruval and also throw a stone upon his head, resulting in his death.

3.Urging that the occurrence, even if taken as true for the purpose of argument, was not a pre-meditated one and that the accused has been in custody for a period of 2 years and 3 months, learned counsel for petitioner seeks the relief of suspension of sentence.

4.Per contra, Mr.R.Anandaraj, 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.

5.Considering the facts and circumstances of the case, that it is not possible for the Court to take the Criminal Appeal in the nearest future, that there are arguable points and according to learned counsel for petitioner, there are several infirmities in the prosecution case in respect of petitioner, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to petitioner herein. Keeping in view of these facts, we are inclined to suspend the substantive portion of sentence imposed on petitioner.

6.Accordingly, the **substantive sentence of imprisonment alone is suspended in respect of petitioner** 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 Judicial Magistrate No.IV, Trichy, 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/-

07/06/2018

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TO

- 1 THE PRINCIPAL SESSIONS JUDGE, TRICHY
- 2 THE JUDICIAL MAGISTRATE NO.IV, TRICHY
- 3 THE CHIEF JUDICIAL MAGISTRATE
TRICHY
- 4 THE INSPECTOR OF POLICE,
WORAIYUR POLICE STATION, TIRUCHIRAPPALLI.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.T.LENIN KUMAR Advocate SR.No.9758

ORDER
IN
CRL MP (MD) No.2812 of 2018
IN
CRL A (MD) No.173 of 2018
Date :07/06/2018

SMA/RR-CSL/GSR/13.06.2018:2P/8c