



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

Thursday, the Twelfth day of July 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.3246 of 2018
IN CRL A(MD) No.62 of 2018

1 RAJENDRAN
2 MUTHALAGU

... APPELLANTS/ PETITIONERS/
ACCUSED 1 & 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
MATHUR POLICE STATION,
PUDUKOTTAI DISTRICT.

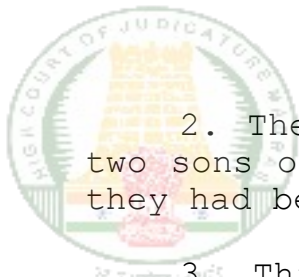
... RESPONDENT/ RESPONDENT/
COMPLAINANT

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 petitioners herein by the Additional District & Sessions Judge/ Presiding officer, Special Court for EC and NDPS Act Cases, Pudukottai in S.C.No. 2 of 2016 by Judgment dated 12.12.2017 and enlarge them on bail pending disposal of the above Crl. Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.GOPINATH, Senior Counsel for Mr.L.MAHENDRAN, Advocate for the appellants and of Mr.S.CHANDRASEKARAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

Petitioners were arrayed as accused Nos.1 and 2 in S.C.No.2 of 2016, on the file of the Additional District & Sessions Judge/Presiding Officer, Special Court EC and NDPS Act Cases, Pudukottai and under judgment dated 12.12.2017, the appellants have been convicted for the offence under Sections 120(b) r/w 302 IPC and sentencing them to undergo Life Imprisonment with fine of Rs.2000/- each in default to undergo 3 months simple imprisonment and also convicting them for the offence under Section 302 IPC and sentencing them to undergo Life Imprisonment with fine of Rs.2000/- each in default to undergo 3 months Simple Imprisonment each and the sentence to run concurrently. Petitioners have come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.



2. The case of the prosecution is that owing to prior enmity, two sons of P.W.1 were done to death by four accused persons, after they had been lured to the scene.

3. This Court under orders in CrI.M.P.(MD) No.762 and 915 of 2018 granted bail to the third and fourth accused primarily on the ground that no motive was alleged against them.

4. Heard learned Senior Counsel for petitioners and learned Additional Public Prosecutor appearing for respondent.

5. The learned Senior Counsel submitted that P.W. 1 and 2 projected as eye witnesses have turned hostile. A lungi identified by the second accused as worn by the first accused at the time of occurrence has been recovered. 4 aruvals had also been recovered upon confession of the second accused and though human blood stains were found on them, grouping test was inconclusive. In circumstance, where the alleged eye witnesses have not supported the prosecution case, the case becomes one which rests on circumstantial evidence and merely that accused persons had a grudge against the deceased would not suffice to deny them relief.

6. Heard learned Additional Public Prosecutor on the above submission. He 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 petitioners.

7. 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 petitioners.

8. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioners/ accused Nos.1 and 2 and they are directed to be enlarged on bail on condition that they shall execute a separate 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 Additional District & Sessions Judge/Presiding Officer, Special Court EC and NDPS Act Cases, Pudukottai, and on further condition that petitioners shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-
12/07/2018

/ TRUE COPY /



TO

1 THE ADDITIONAL DISTRICT & SESSIONS JUDGE/
PRESIDING OFFICER, SPECIAL COURT
FOR EC AND NDPS ACT CASES, PUDUKOTTAI.

2 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
KEERANUR, PUDUKOTTAI DISTRICT.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKOTTAI DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

5 THE INSPECTOR OF POLICE,
MATHUR POLICE STATION, PUDUKOTTAI DISTRICT.

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

+1. C.C. to MR.L.MAHENDRAN Advocate SR.No.12925

ORDER

IN

CRL MP (MD) No.3246 of 2018

IN

CRL A (MD) No.62 of 2018

Date :12/07/2018

MS/MMS/ASVM/16.07.2018/3P.8C