



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

Tuesday, the Twelfth day of June 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.3373 of 2018

IN

CRL A (MD) No.208 of 2018

1 MUNIYASAMY

2 VIJAYAKUMAR

3 ANANTHAN

4 VIVEK

... PETITIONERS / APPELLANTS

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
KENIKARAI POLICE STATION,
CRIME NO.91/2014.

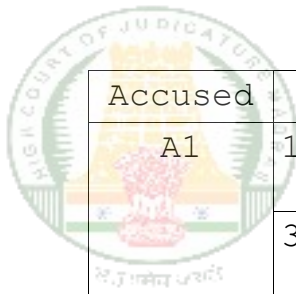
... RESPONDENT / RESPONDENT

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 by the Additional Sessions Judge, Ramanathapuram in S.C.No.106/2016 dated 28/03/2018 and enlarge the petitioners on bail pending of the above CrI.A.

Order: This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.N.ANANTHAPADMANABAN Advocate for M/S.APN LAW ASSOCIATES, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

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

Petitioners are arrayed as A1 to A4 in S.C.No.106 of 2016 on the file of Additional and Sessions Judge, Ramanathapuram and under judgment dated 28.03.2018 they have been convicted and sentenced as follows:



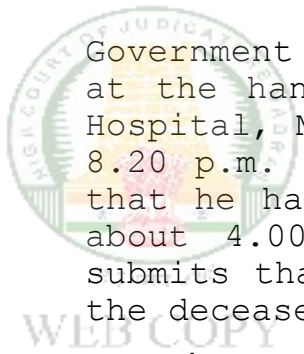
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Accused	Offence	Sentence
A1	148 IPC	2 years S.I. and fine of Rs.1000/- i/d 6 months S.I.
	341 IPC	1 month S.I. and fine of Rs.500/- i/d 7 days S.I.
	302 IPC	Life imprisonment & fine of Rs.50,000/- i/d 3 years S.I.
	307 IPC	7 years S.I. and fine of Rs.10000/- i/d 1 year S.I.
A2	148 IPC	2 years S.I. and fine of Rs.1000/- i/d 6 months S.I.
	341 IPC	1 month S.I. and fine of Rs.500/- i/d 7 days S.I.
	302 r/w 149 IPC	Life imprisonment & fine of Rs.25,000/- i/d 2 years S.I.
	307 IPC	10 years S.I. and fine of Rs.25000/- i/d 2 years S.I.
A3 & A4	147 IPC	1 year S.I. and fine of Rs.1000/- i/d 1 month S.I.
	341 IPC	1 month S.I. and fine of Rs.500/- i/d 7 days S.I.
	302 r/w 149 IPC	Life imprisonment & fine of Rs.10,000/- i/d 1 year S.I.
	307 r/w 149 IPC	5 years R.I. and fine of Rs.5,000/- i/d 1 year S.I.

Petitioners have come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.

2.Learned counsel for petitioners submits that as per the case of prosecution, subsequent to a quarrel that arose at a wedding function, the deceased, who was on a two wheeler, was waylaid by five accused namely, A1 to A4 and a Juvenile. A1 caused stab injuries to the chest of the deceased, while A2, using an iron rod, hit the head of the deceased as also of P.W.1. P.W.3, Doctor, who examined P.W.1, had spoken to being informed of an attack at 3.00 p.m. on 03.03.2014 by one known person. P.W.3 had also noticed that the wound suffered by P.W.1, had been sutured, but there was no explanation on how, such position came about.

3.Learned counsel for petitioners further submitted that defence had examined one Dr.Gnanakumar, who was attached to Rajaji Government Hospital, Madurai, at the relevant point of time. Records produced by him and his evidence in the box, inform that A3 had suffered two stab injures to the left thigh. D.W.1 had examined A3, who had been admitted to a private hospital on 04.03.2014 at 8.00 p.m. After treating him for 5 days, A3 had been sent to Rajaji



Government Hospital, Madurai on 10.03.2014. Even before treatment at the hands of D.W.1, A3 had been admitted to Rajaji Government Hospital, Madurai on the very date of occurrence ie., 03.03.2014 at 8.20 p.m. as spoken to by D.W.3, Doctor thereat. A3 had informed that he had suffered a knife attack at the hands of 15 persons at about 4.00 p.m on 03.03.2014. Learned counsel for petitioners submits that genesis of the occurrence as also the manner in which, the deceased met his death and P.W.1 suffered injuries, is unclear.

4.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 petitioners.

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 petitioners, there are several infirmities in the prosecution case in respect of petitioners, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to petitioners herein. Keeping in view of these facts, we are inclined to suspend the substantive portion of sentence imposed on petitioners.

6.Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioners and they are directed to be enlarged on bail on condition that they 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 Additional Sessions Judge, Ramanathapuram, 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/-
12/06/2018

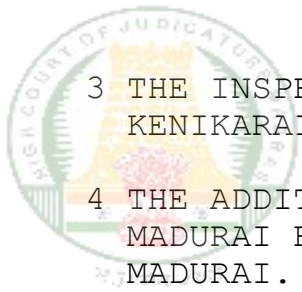
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE ADDITIONAL SESSIONS JUDGE,
RAMANATHAPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON,



3 THE INSPECTOR OF POLICE,
KENIKARAI POLICE STATION,

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

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+1. C.C. to Mr.ANANTHA PADMANABAN, Advocate SR.No.10158.

ORDER
IN
CRL MP (MD) No.3373 of 2018
IN
CRL A (MD) No.208 of 2018
Date :12/06/2018

SDS/PN/GSR/13.06.2018/3P/6C