



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

Thursday, the Twenty Eighth day of June Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP (MD) No.3837 of 2018
IN
CRL A (MD) No.119 of 2018

P.ARUMUGAM
NOW CONFINED AT,
CENTRAL PRISON,MADURAI

... PETITIONER/APPELLANT/
ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THADICOMBU POLICE STATION,
DINDIGUL DISTRICT,
CR NO. 204/2009.

... RESPONDENT/RESPONDENT/
COMPLAINANT

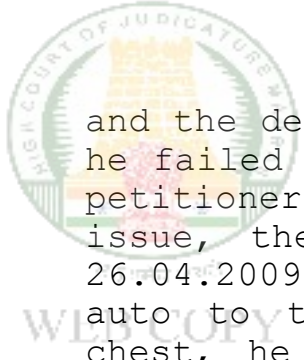
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence passed by the Learned Additional District and Sessions Court Dindigul in S.C No. 54/2012 dated 12.01.2018 and enlarged him on bail pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.C.SINGARAJ, Advocate for the petitioner and of Mr.K.SUYAMBULINGA BHARATHI, Government Advocate (Crl.Side) for the Respondent the court made the following order:-

Heard Mr.C.Singaraj, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondent.

2.This petition is filed to suspend the sentence imposed by the learned Additional District Sessions Court, Dindigul in S.C.No.54 of 2012 dated:12.01.2018 and to release the accused on bail.

<https://hcservices.courts.gov.in/hcservices/> of the prosecution is that the deceased approached the petitioner for selling a land to P.W.12/ Thangam



and the deceased received a sum of Rs.50,000/- as an advance, but he failed to execute the sale deed within three months. When the petitioner/first accused approached the deceased for settling the issue, the deceased refused to return the advance amount. On 26.04.2009, the petitioner/A1 and A2 kidnapped the deceased in an auto to the occurrence place. A1 kicked the deceased in his chest, he fell down and became unconscious. The first accused crushed the head of the deceased with the stone and he died. A case in Crime No.204 of 2009 under Sections 364 and 302 of I.P.C, was registered and after trial the learned District Judge, Dindigul convicted the accused under Section 304 (ii) of IPC and sentenced him to undergo Rigorous Imprisonment for a period of seven years.

4.On the side of the petitioner, it is stated that the petitioner is in custody for the past six months and that there is no direct evidence to the occurrence and that only on the basis of the circumstantial evidence, the lower Court has convicted the petitioner. It is stated that there is contradiction between the evidence P.W.1 and the evidence of the Doctor, regarding the time of death and that P.W.2 to P.W.6 are relatives, who are interested witnesses. The petitioner was only a broker between the deceased and P.W.12 and that there are number of arguable points for an acquittal in the appeal and prayed that the sentence to be suspended till the disposal of the appeal.

5.On the side of the respondent, it is stated that the case under Section 302 of IPC., is filed against the petitioner. The prosecution has examined 23 witnesses and 20 Exhibits and 10 Mos., were marked and only after considering all the evidences, the trial court has convicted the petitioner. It is further stated that the motive was clearly proved by the evidence of P.W.2, which is corroborated by the evidences of P.Ws.2 to 6, 9, 12 and 13 and that P.W.13 has deposed that he had seen the deceased with the accused in an auto and that P.W.22 is the recovery witness and that the belongings of the accused were recovered and were marked as material objects and that the lower Court convicted the accused after considering all the facts and objected this petition.

6.On the side of the petitioner, it is further stated that sentence imposed on A2 was already suspended.

7.On the side of the respondent it is stated that A2 is not the main accused in this case and that the petitioner is in custody only from 12.01.2018.

8.The points narrated on the both sides can be decided only at the time of appeal and in such circumstances, this court is not inclined to grant suspension of sentence to the petitioner at



this stage. Accordingly, this suspension of sentence petition is dismissed.

9. Post this main appeal on **12.07.2018**

WEB COPY

sd/-
28/06/2018

/ TRUE COPY /

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

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, DINDIGUL
- 2 THE JUDICIAL MAGISTRATE NO.II, DINDIGUL
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
DINDIGUL DISTRICT.
- 4 THE INSPECTOR OF POLICE, THADICOMBU POLICE STATION,
DINDIGUL DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 6 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

DAS

GJM/PMI/ASVM/10.7.18-3P-7C

ORDER
IN
CRL MP (MD) No.3837 of 2018
IN
CRL A (MD) No.119 of 2018
Date : 28/06/2018