



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

Tuesday, the Thirtieth day of October Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.6241 of 2018

IN

CRL A(MD) No.353 of 2018

VICKRAM

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THATTAPARAI POLICE STATION,
THOOTHUKUDT DISTRICT.
IN CRIME NO. 59 OF 2016

... RESPONDENT/RESPONDENT/COMPLAINANT

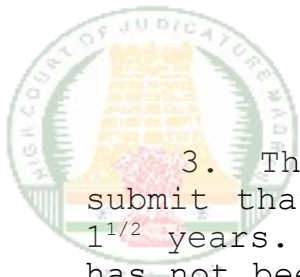
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed against me in S.C.No.339/2016 on the file of the Honourable II Additional and District Sessions Court, Thoothukudi dated 11/10/2017 and release me on bail till the disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ALAGUMANI, 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 M.M.SUNDRESH, J.,]

The petitioner is the sole accused in S.C.No.339 of 2016, on the file of the Second Additional District and Sessions Court, Thoothukudi and under Judgment dated 11.10.2017, he has been convicted for the offence under Section 302 of the Indian Penal Code [two counts] and sentenced to undergo imprisonment for life. Pending disposal of the Criminal Appeal, the petitioner has come forward to file the present Miscellaneous Petition seeking suspension of sentence.

2. The case of the prosecution is that in view of the previous enmity, which arose few hours before the erecting the Flex Board between the petitioner and the deceased, the deceased was attacked with aruval.



3. The learned counsel appearing for the petitioner would submit that the petitioner has been in incarceration for more than 1^{1/2} years. Though it is a case of circumstantial evidence, the link has not been established. Though PW-4 and PW-5 have spoken about the accused coming with aruval and despite the evidence of PW-1 that the aforesaid statement has been made to him by PW-4 and PW-5, there is no mention about the same in the First Information Report. He would also submit that the the First Information Report has reached the Court belatedly.

4. The learned Additional Pubic Prosecutor would submit that the Trial Court has convicted the petitioner herein by relying upon the evidence of PW-4 and PW-5 and therefore, this petition will have to be dismissed.

5. We have considered the above submissions and perused the records carefully.

6. After considering the above submissions, we find that there are arguable pointed involved to be decided in the Criminal Appeal. Thus, this Court deems it appropriate to suspend the substantive portion of sentence imposed on the petitioner.

7. Accordingly, the present Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended in respect of the petitioner and he is directed to be enlarged on bail on condition that he shall execute a bond for 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.I, Thoothukudi and on further condition that the petitioner shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m. pending appeal.

sd/-
30/10/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE NO.I,
THOOTHUKUDI.

2 -DO- THROUGH THE CHIEF
JUDICIAL MAGISTRATE, THOOTHUKUDI.

<https://hcservices.ecourts.gov.in/hcservices/>
3 THE II ADDITIONAL AND DISTRICT
SESSIONS COURT, THOOTHUKUDI.



4 THE INSPECTOR OF POLICE,
THATTAPARAI POLICE STATION,
THOOTHUKUDT DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1. C.C. to M/S.R.ALAGUMANI Advocate SR.No.21021

ORDER
IN
CRL MP (MD) No.6241 of 2018
IN
CRL A (MD) No.353 of 2018
Date :30/10/2018

JM/VR MMS/SAR 2/01.11.2018/3P/8C