



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

Monday, the Twenty Ninth 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.6513 of 2018
IN
CRL A (MD) No.371 of 2018

SHAIK@SHAIK MOHAMED

... PETITIONER/APPELLANT

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE
KENIKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT
CR NO.35 OF 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 in judgement dated 18/01/2018 made in S.C.No.55/2016 on the file of the Additional District and Sessions Court, Ramanathapuram and enlarge the petitioner/appellant on bail pending disposal of the instant Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.B.SENTHIL KUMAR, Advocate for the petitioner and of MR.R.ANNADURAI, Additional Government Pleader on behalf of the Respondent, the court made the following order:-

[Order of the Court passed by **M.M.SUNDRESH, J.**]

Petitioner is arrayed as 1st accused in S.C.No.55 of 2015, on the file of the Learned Additional District and Sessions Judge, Ramanathapuram, and under judgment dated 18.01.2018, he has been convicted for the offence under Section 302 I.P.C. and sentenced to life imprisonment and fine of Rs.5,000/- i/d 1 year S.I. and also convicted for the offence under Section 341 I.P.C. and sentenced to 15 days simple imprisonment and fine of Rs.500/- i/d 7 days S.I. Petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.



2. Heard learned counsel appearing for the petitioner and learned Additional Public Prosecutor appearing for the respondent.

3. The case of the prosecution is that A4 spoke about the character and fidelity of the wife of the deceased. In pursuant to the same, a wordy quarrel arose between the deceased and A4, who took the other accused and petitioner along with him. Thereafter, the petitioner is stated to have attacked the deceased with knife.

4. Learned counsel for petitioner submitted that the petitioner is in incarceration for more than 10 months while the other accused got the sentence suspended. There is material discrepancies between the evidence of P.W.1 and P.W.2.

5. 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 petitioner.

6. We find arguable points in the appeal. Considering the facts and circumstances of the case and also the fact that the petitioner is under incarceration for 10 months while the other accused got the sentence suspended, this Court considers it appropriate to suspend the substantive portion of sentence imposed on petitioner.

7. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner / 1st accused 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 learned Judicial Magistrate No.II, Ramanathapuram, 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/-
29/10/2018

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

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
RAMANATHAPURAM.



2 THE JUDICIAL MAGISTRATE NO.II, RAMANATHAPURAM

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT

4 THE INSPECTOR OF POLICE
KENIKARAI POLICE STATION, RAMANATHAPURAM DISTRICT

5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

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

+1. C.C. to MR.B.SENTHIL KUMAR, Advocate SR.No.20499

ORDER
IN
CRL MP (MD) No.6513 of 2018
IN
CRL A (MD) No.371 of 2018
Date :29/10/2018

PK/RR/SAR-4/31.10.2018 : 3P/8C