



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

Thursday, the Thirtieth day of August Two Thousand Eighteen

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PRESENT

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

CRL MP(MD) No.6760 of 2018
IN
CRL A(MD) No.202 of 2018

KALIMUTHU

... PETITIONER/ APPELLANT

Vs

1 STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
OOMACHIKULAM SUB DIVISION,
MADURAI, MADURAI DISTRICT.

2 THE INSPECTOR OF POLICE,
Y. OTHAKKADAI POLICE STATION,
MADURAI DISTRICT.
IN CRIME NO 401 OF 2017

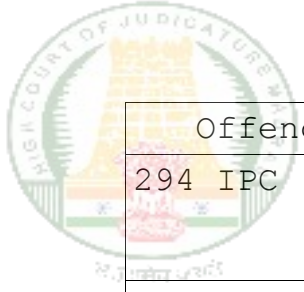
... RESPONDENT/ COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of imprisonment alone in S.C.No. 86 of 2017 dated 21.02.2018 on the file of the Learned III Additional District and Sessions Judge, Madurai, and enlarge the petitioner /Accused No. 2 on bail, till the disposal of the Criminal Appeal in Crl.A(MD)NO. 202 of 2018.

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.A.P.N. LAW ASSOCIATES, for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondents, the court made the following order:-

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

The petitioner is arrayed as the accused No.2 in S.C.No.86 of 2017, on the file of the Third Additional District and Session, Madurai and under Judgment dated 21.02.2018, he has been convicted and sentenced as follows:-



Offence	Sentence
294 IPC	To undergo one month simple imprisonment and to pay a fine of Rs.100/-, in default to undergo 10 days simple imprisonment.
341 IPC r/w 34 IPC r/w 3 (2) (5a) SC/ST Act	To undergo one month simple imprisonment and to pay a fine sum of Rs.500/- in default to undergo 10 days simple imprisonment
302 IPC 34 IPC r/w 3(2) (5) SC/ST Act	To undergo life imprisonment and also to pay fine sum of Rs.1000/- in default to undergo three months simple imprisonment
3(1) (S) SC/ST (POA) Act r/w 34 IPC	To undergo 1 year rigorous imprisonment and to pay a sum of Rs.5000 in default to undergo 3 months simple imprisonment

The petitioner has come forward with the present Miscellaneous Petition, seeking relief of suspension of sentence pending appeal.

2. The case of the prosecution is that owing to previous enmity, the deceased was done to death by the accused 1 and 2. Case was registered in Crime No.401 of 2017, on the file of the respondent police and the same on completion of investigation, filing of final report and on committal was tried by the III Additional District and Sessions Judge for PCR Cases, Madurai, in S.C.No 86 of 2017 and under Judgment dated 21.02.2018, the accused Nos.1 and 3 were convicted for the offences, stated supra.

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

4. The only overt act attributed against the second accused is that he caught hold of the deceased. The learned counsel appearing for the petitioner has brought to the notice of this Court the order dated 01.08.2018 made in CrI.M.P.(MD).No.3888 of 2018 in CrI.A.(MD). No.258 of 2018, in and by which the first respondent was granted suspension of sentence.

5. Considering the facts and circumstances of the case and the submission of both sides and also considering that the appeal is not likely to be heard in the near future, this Court considers it appropriate to suspend the substantive portion of sentence imposed on the petitioner.

6. Accordingly, the present Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended in respect of the petitioner/second 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 the III Additional District and Sessions Judge, Madurai, 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.

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sd/-
30/08/2018

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

TO

1. THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
OOMACHIKULAM SUB DIVISION,
MADURAI, MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
Y. OTHAKKADAI POLICE STATION,
MADURAI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to Mr.N.ANANTHAPADMANABAN, Advocate SR.No.16498

ORDER
IN
CRL MP(MD) No.6760 of 2018
IN
CRL A(MD) No.202 of 2018
Date :30/08/2018

MS/PN/SAR-4/31.08.2018/3P.7C