



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

Thursday, the Thirteenth day of June Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN

and

The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.4510 of 2019

IN

CRL A(MD) No.8 of 2019

SELVAM @ PALAKOTTAI SELVAM

... PETITIONER/
APPELLANT/ ACCUSED NO.4

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
VEERAPANDI,
CRIME NO.358/2015 OF
VEERAPANDI POLICE STATION,
THENI DISTRICT.

... 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 execution of sentence in so far as the Petitioner/Appellant/Accused No.4 is concern by granting bail in S.C.No.162/2016 dated 10/12/2018 on the file of the Learned Additional District Judge (FTC), Theni, Theni District pending disposal of the main Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.J.MATHESH, 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 this Court was made by **M.SATHYANARAYANAN, J**)

The petitioner/appellant is arrayed as A4 in S.C.No.162 of 2016 on the file of the Court of Additional District Judge, (Fast Track), Theni and he was tried along with A1 to A3 and A5 to A7. The trial Court has framed the following charges against the accused.

A1	148, 506(ii) and 302 I.P.C.
A2	148 and 302 r/w 149 I.P.C.
A3	148 and 302 r/w 34 I.P.C.



A4	148 and 302 r/w 34 I.P.C.
A5	148 and 302 r/w 149 I.P.C.
A6	148 and 302 r/w 34 I.P.C.
A7	148 and 302 r/w 34 I.P.C.

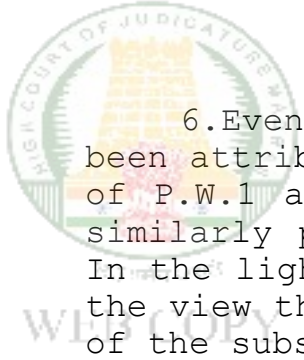
The trial Court under the impugned judgment dated 10.12.2018 has found him guilty for commission of the offence under Section 302 r/w 149 I.P.C., sentenced him to undergo life imprisonment and to pay a fine of Rs.5,000/-, with a default sentence of 6 months Simple Imprisonment. The petitioner, challenging the legality of the said conviction and sentence, preferred the present appeal and pending appeal, filed the present petition seeking suspension of the substantive sentence of imprisonment.

2.The case of the prosecution is that on account of previous enmity, at 02.00 PM, on 29.06.2015, the accused Nos.1 to 8 hatched a conspiracy to do away with the deceased. Pursuant to the same, at 07.00 PM, on 30.06.2015, all the accused assembled in front of a Tea Shop, run by one Ganesan at Jangalpatti Lakshmipuram. The eighth accused (died) directed the other accused to kill the deceased. The fourth accused and the seventh accused caught hold of P.W.1., who came in rescue of the deceased. The first accused stabbed the deceased with knife on his left chest, left side shoulder, right side axilla and left side stomach. The deceased died on the way to Theni Government Hospital.

3.The learned counsel appearing for the petitioner would submit that even according to the case of the prosecution, the specific overt act against the petitioner herein/Accused No.4 is that he caught hold of P.W.1. The learned counsel would also point out that though it is the case of the prosecution that PW-2 to PW-5 were present at the time of occurrence, there is a contradictory version between them. The learned counsel for the petitioner would further submit that A7, who is similarly placed as that of the petitioner/A4 has been granted suspension of sentence by this Court vide order dated 28.01.2019, made in CrI.M.P.(MD) No.10394 of 2018 in CrI.A. (MD) No.541 of 2018 and the petitioner is not having any antecedent and since the petitioner is having a bright chance of success in this appeal, prays for suspension of the substantive sentences of imprisonment.

4.Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that the witnesses have spoken about the petitioner in the scene of crime and the points urged by the learned counsel appearing for the petitioner can be appreciated only at the time of final disposal and hence, prays for dismissal of this petition.

5.This Court has carefully considered the rival submissions and also perused the materials placed before it including the impugned judgment.



6. Even according to the prosecution, the petitioner/A4 has not been attributed with any fatal overt act and he has only caught hold of P.W.1 and he is also not having any antecedent and the accused similarly placed viz., A7 has been granted suspension of sentence. In the light of the above facts and circumstances, this Court is of the view that the petitioner/Appellant/A4 is entitled for suspension of the substantive sentence of imprisonment pending this appeal.

7. In the result, the petition is ordered and the substantive sentence of imprisonment alone in respect of the petitioner/Appellant/A4 is suspended and the petitioner/Appellant/A4 is directed to be enlarged on bail on condition that the petitioner/Appellant/A4 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, Theni and on further condition that the petitioner/Appellant/A4 shall appear before the Committal Court, viz., the Court of Judicial Magistrate, Theni [PRC.No.14/2016] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

sd/-
13/06/2019

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

TO

1. THE ADDITIONAL DISTRICT JUDGE (FTC),
THENI, THENI DISTRICT.
2. THE JUDICIAL MAGISTRATE, THENI.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
5. THE INSPECTOR OF POLICE, VEERAPANDI,
VEERAPANDI POLICE STATION, THENI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.J.MATHESH Advocate SR.No.9577

ORDER
IN
CRL MP (MD) No.4510 of 2019
IN
CRL A (MD) No.8 of 2019
Date : 13/06/2019

MS/VR/SAR-1/17.06.2019/3P.8C