



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

Thursday, the Twenty Seventh day of June Two Thousand Nineteen
PRESENT

WEB COPY

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and

The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) Nos.4557 and 4690 of 2019

IN

CRL A(MD) No.548 of 2018

AND

CRL MP(MD) No.5398 of 2019

IN

CRL A(MD) No.9 of 2019

THEIVAM @ THEIVAKANI	... PETITIONER/ APPELLANT/ ACCUSED NO.2 IN CRL MP(MD). 4557/ 2019
KODEESHWARAN	... PETITIONER/ APPELLANT/ ACCUSED NO.3 IN CRL MP(MD). 4690/ 2019
SELVARANI	... PETITIONER/ APPELLANT/ ACCUSED NO.5 IN CRL MP(MD). 5398/ 2019

- VS. -

STATE REP. BY
THE INSPECTOR OF POLICE,
VEERAPANDI POLICE STATION,
THENI DISTRICT.

CRIME NO.358 OF 2015 ... RESPONDENT/ RESPONDENT/ COMPLAINANT
IN ALL THE PETITIONS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant/accused in SC.No.162 of 2016 dated 10.12.2018 on the file of the District and Sessions Judge, (Fast Track Court), Theni and enlarge her on bail pending disposal of the appeal.

Prayer in CRL MP(MD). 4690/ 2019 :

To suspend the sentence imposed on the Petitioner/ Appellant / Accused in SC.No.162 of 2016 dated 10.12.2018 on the file of the Learned District and Sessions Judge, (Fast Track Court), Theni and enlarge him on bail pending disposal of the appeal.

Prayer in CRL MP(MD). 5398/ 2019 :

<https://hcservices.ecourts.gov.in/hcservices/>
To suspend the execution of sentence in so far as the petitioner/appellant/accused no.5 is concern by granting bail in



SC.No.162 of 2016 dated 10.12.2018 on the file of the Additional District Judge (FTC), 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 MR.G.KARUPPASAMY PANDIAN, Advocate for the petitioner in CRL MP(MD) Nos.4557 & 4690 of 2019 and MR.J.MATHESH, Advocate for the petitioner in CRL MP(MD) No.5398 of 2019 and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent in all the petitions, the court made the following order:-

COMMON ORDER

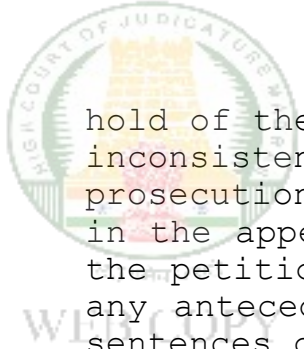
(Order of this Court was made by **M. SATHYANARAYANAN, J**)

The petitioners herein are arrayed as A.2, A.3 and A.5 respectively in S.C.No.162 of 2016, on the file of the Court of Additional District Judge (Fast Track Court), Theni and vide impugned judgment dated 10.12.2018, they were convicted and sentenced as follows:

Rank of the Accused	Conviction u/s	Sentence awarded
A.2	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for six months.
A.3	302 r/w 34 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for six months.
A.5	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for six months.

The sentences of imprisonment were ordered to be run concurrently. The trial Court has also granted set-off under Section- 428 Cr.P.C. Challenging the legality of the said conviction and sentence, the petitioners/A.2, A.3 and A.5 have preferred the appeals in Crl.A. (MD)Nos.548 of 2018 and 9 of 2019 respectively and pending the appeals, they had filed the present petitions seeking suspension of the substantive sentences of imprisonment.

2. The learned Counsel appearing for the petitioners would submit that even according to the prosecution, A.1 was contributed with fatal overt act and A.2 and A.5 had caught hold of the son of the deceased viz., Pandi Durai (L.W.1) and even prior to the commencement of the trial, he is no more and insofar as the overt act against A.3 is concerned, he along with A.6 said to have caught



hold of the deceased. He would further add that there are very many inconsistencies and infirmities in the evidence rendered by the prosecution and therefore, there is a very bright chance of success in the appeals and it is also submitted that through out the trial, the petitioners/A.2, A.3 and A.5 were on bail and they did not have any antecedents and hence, prays for suspension of the substantive sentences of imprisonment.

3. Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that insofar as A.3 is concerned, but for catching hold of the deceased along with A.6, he would not have escaped and would not have sustained fatal injuries and also brought to the knowledge of this Court that the sentences imposed against A.4 and A.7 has been suspended by this Court.

4. This Court has carefully considered the rival submission and perused the materials placed before this Court.

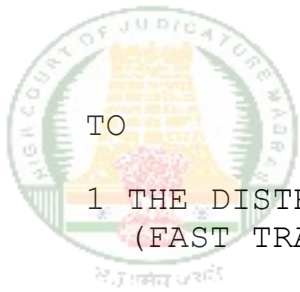
5. As per the evidence rendered by the prosecution, A.1 is attributed with the fatal over act and the role played by A.2 and A.5 are concerned, even according to the prosecution, they caught hold the son of the deceased viz., Pandi Durai (L.W.1) and even prior to the commencement of trial, he died. Insofar as A.3 is concerned, he is said to have caught hold of the deceased along with A.6 and he is not attributed with any fatal over act.

6. This Court, taking into consideration of the above facts and circumstances, is of the considered view that the petitioners / A.2, A.3 and A.5 are entitled for suspension of the substantive sentences of imprisonment pending these appeal.

7. In the result, the petitions are allowed and the substantive sentences of imprisonment alone in respect of the petitioners/A.2, A.3 and A.5 are suspended and the petitioners/A.2, A.3 and A.5 are directed to be enlarged on bail on condition that each the petitioners/A.2, A.3 and A.5 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 petitioners/A.2, A.3 and A.5 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/-
27/06/2019

/ TRUE COPY /



TO

1 THE DISTRICT AND SESSIONS JUDGE,
(FAST TRACK COURT), THENI.

2 THE ADDITIONAL DISTRICT JUDGE,
(FAST TRACK COURT),
THENI DISTRICT.

3 THE JUDICIAL MAGISTRATE,
THENI.

4 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.

5 THE INSPECTOR OF POLICE,
VEERAPANDI POLICE STATION,
THENI DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
MADURAI.

7 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

8 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.K.SAMIDURAI Advocate SR.No.10611

+1. C.C. to M/S.J.MATHESH Advocate SR.No. 10609

ORDER

IN

CRL MP(MD) Nos.4557 and 4690 of 2019

IN

CRL A(MD) No.548 of 2018

AND

CRL MP(MD) No.5398 of 2019

IN

CRL A(MD) No.9 of 2019

Date :27/06/2019

JM/VR/SAR 4/01.07.2019/4P/12C

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