



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

Thursday, the Sixth 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.4596 of 2019
IN
CRL A(MD) No.163 of 2019

1 VEERANAN
2 JEYALAKSHMI

... PETITIONER/ APPELLANTS 3 & 4/
ACCUSED NO.3 & 4

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
NILAKOTTAI POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.209/2013)

... 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 imposed on the Petitioners by the Learned Additional District and Sessions Judge, Dindigul in S.C.No.158/2017 dated 28/03/2019 and enlarged them on bail pending disposal of the above Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.SUNDARAVEL, Advocate for the petitioner and of MR.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

The petitioners are A3 and A4. They along with three other accused are charged as follows:-

Accused	Charges
A1, A2 and A5	120(b), 147 and 302 IPC.
A3 & A4	120(b), 147, 302 r/w 149 IPC.



2.The Additional District and Sessions Judge, Dindigul, vide impugned judgment dated 28.03.2019 has convicted and sentenced the accused as follows:-

Accused	Conviction	Sentence
A1, A2 & A5	302 IPC	To undergo imprisonment for life and to pay a fine of Rs.10,000/- each, in default, each to undergo two years simple imprisonment.
A3 & A4	302 IPC r/w 149 IPC	To undergo imprisonment for life and to pay a fine of Rs.10,000/- each, in default, each to undergo two years simple imprisonment.

3.The trial Court had acquitted A1 to A5 for the commission of offence under Section 120(b) IPC. However, convicted all the accused for the commission of offence under Sections 147 and 149 IPC. Since it has awarded the maximum sentence for the commission of offence under Section 302 IPC, did not award any separate sentence.

4.The learned counsel for the petitioners / A3 and A4 would submit that admittedly specific and fatal overtacts have been attributed against A2 and A5 and they were also convicted for the commission of offence under Section 120(b) IPC and they projected the testimonies of eye witnesses P.Ws.2 and 5 and P.W.5 did not support the case of the prosecution and therefore he was treated as hostile witness. The testimony of P.W.2, in no way implicate the petitioners or connecting them with the commission of crime and except the fact that they travelled in a vehicle, which is said to have been dashed against the two wheeler driven by the deceased, no other incriminating materials / evidences have been produced by the prosecution and therefore prays for suspension of substantive sentence of imprisonment.

5.Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the State would submit that the prosecution, by examining through the testimonies of witnesses, especially P.W.2 coupled with scientific evidence, has established the fact of homicidal violence of the husband of P.W.1 beyond any reasonable doubt. The trial Court, on appreciation of documentary evidence and other materials, has rightly passed the conviction and sentence and therefore prays for dismissal of this petition.

6.This Court has carefully considered the rival submissions on either side and perused the materials placed before this Court.

7.Admittedly, the trial Court recorded the finding that the accused cannot be convicted for the commission of offence under Section 120 (b) IPC for lack of evidence, however, with the aid of



Sections 147 and 149 IPC has convicted the petitioners for the commission of offence under Section 302 IPC also.

8.A perusal of the testimonies of witnesses would *prima facie* disclose that the petitioners did not utter any word instigating A2 and A5, who have been attributed with fatal overtact to commit the murder.

9.The Investigating Officer who was examined as P.W.14, himself has stated that there is no material for roping the petitioners for the commission of offence under Section 120 (b) IPC and the trial Court has also rightly acquitted them for the commission of the said offence. The testimony of P.W.14 would also disclose that AR copy has not been produced and the two wheeler said to have been driven by the deceased was recovered not in the presence of any witnesses or through the Mahazar.

10.The petitioners have not been attributed with any fatal overtact or words said to have been instigated A2 and A5 to commit the commission of offence.

11.For the reasons aforesaid, this Court is inclined to suspend the substantive sentence of imprisonment imposed on the petitioners/appellants by allowing this petition. Accordingly, this criminal miscellaneous petition is allowed and the petitioners are directed to be released on bail, on each of them executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) alongwith two sureties, each for a likesum, to the satisfaction of the Judicial Magistrate, Nilakottai and on further condition that they shall appear before the Judicial Magistrate, Nilakottai at 10.30 a.m., in PRC.No.6 of 2014, on the first working day of every English calendar month until further orders.

sd/-

06/06/2019

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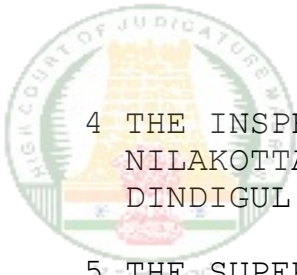
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE,
NILAKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL.

3 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE, DINDIGUL.



4 THE INSPECTOR OF POLICE,
NILAKOTTAI POLICE STATION,
DINDIGUL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.M.KARTHIKEYA VENKATACHALAPATHY, Advocate SR.No. 9171

ORDER

IN

CRL MP (MD) No.4596 of 2019

IN

CRL A (MD) No.163 of 2019

Date :06/06/2019

JM/VR/SAR 3/11.06.2019/4P/8C