



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

Monday, the Tenth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) No.4680 of 2019
IN
CRL A(MD) No.234 of 2019

PANDIARAJAN

... PETITIONER/APPELLANT

Vs

THE STATE THROUGH,
THE DEPUTY SUPERINTENDENT OF POLICE,
KENIKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
UNDER CR.NO.501/2009

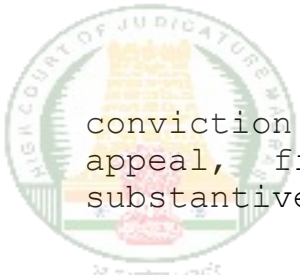
... RESPONDENT/RESPONDENT

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 on the petitioner by the Principal Sessions Court, Ramanathapuram in Spl.S.C.No.59 of 2013, dated 27.04.2019 and enlarge the petitioner 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 M/S.K.R.LAXMAN, 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 sole accused in Special S.C.No.59 of 2013 on the file of the Court of Principal Sessions Judge, Ramanathapuram is the petitioner herein/appellant in the main appeal and he was charged for the commission of offences u/s 302 and 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act. The trial Court vide impugned judgment dated 27.04.2019, had acquitted the petitioner/accused for the commission of offence u/s 3(2)(v) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, however, convicted him for the commission of offence under Section 302 I.P.C. and imposed a sentence of life and to pay a fine of RS.50,000/- with a default sentence of two years rigorous 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 sentences of imprisonment.

2. The learned counsel appearing for the petitioner would submit that the motive for commission of offence is that husband of defacto complainant/deceased belonged to Hindu Arunthathiyar, a Scheduled Caste Community and some strangers used to walk through their street and on one occasion when the petitioner/appellant walked through their street, he questioned him as well as attacked him and when an attempt was made to hand over him to police, the petitioner escaped from him and keeping this in his mind, the petitioner came to their house at about 7.00 p.m. on 18.10.2009 and attacked the deceased with an Aruval - M.O.3 and consequently, he died.

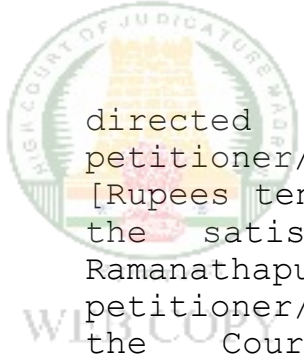
3. The primordial submission of the learned counsel for the petitioner/appellant is that admittedly the defacto complainant is the wife of the deceased and her testimony is interested one and the evidence of P.W.7, alleged eye witness and P.W.8, alleged to have seen the petitioner/appellant fleeing away from the scene of crime cannot be believed since their evidence is contradictory to the one given to the investigation officer, who was examined as P.W.23 and he would submit that P.Ws.7 and 8 have not stated all those things in the statement recorded under Section 161(3) Cr.P.C. 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 testimony of eye-witness P.W.7 has been corroborated by P.W.8 and coupled with the scientific evidence the trial Court has rightly reached the conclusion of conviction and sentence and 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. A perusal and consideration of the testimonies of P.Ws.7, 8 and 23 would prima-facie disclose that according to P.W.7, when the deceased raised alarm he turned back and saw the occurrence, whereas P.W.23 would state that P.W.7 did not say so during the course of investigation and P.W.8 stated that he had seen the petitioner/appellant fleeing away by carrying lethal weapon and once again he did not say so during the course of investigation. In the light of the above facts and circumstances, this Court is of the view that the petitioner/appellant 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 is suspended and the petitioner/appellant is



directed to be enlarged on bail on condition that the petitioner/appellant 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 No.2, Ramanathapuram and on further condition that the petitioner/appellant shall appear before the Committal Court, viz., the Court of Judicial Magistrate No.2, Ramanathapuram [PRC.No.10/2010] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

sd/-
10/06/2019

/ TRUE COPY /

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

TO

- 1.THE PRINCIPAL SESSIONS JUDGE,
RAMANATHAPURAM
- 2.THE JUDICIAL MAGISTRATE NO.II,
RAMANATHAPURAM
- 3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM.
- 4.THE DEPUTY SUPERINTENDENT 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 M/S.K.R.LAXMAN Advocate SR.No.9339

ORDER
IN
CRL MP (MD) No.4680 of 2019
IN
CRL A (MD) No.234 of 2019
Date :10/06/2019

SJ

PK/VR/SAR-2/13.06.2019 : 3P/8C