



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.4699 of 2019
IN
CRL A (MD) No.212 of 2019

1. RAJENDRAN
2 CHINNADURAI
3 SATHEESH
4 RAMESH
5 SIVA
6 RADHAKRISHNAN

... APPELLANTS/ACCUSED NOS, 1, 2, 3, 4, 6, 7

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ANNAVASAL POLICE STATION,
PUDUKKOTTAI DISTRICT.
(CRIME NO.95/2017)

... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioners on bail by suspending the sentence imposed by the learned Additional District and Sessions Judge, Pudukottai, Pudukottai District in S.C.No.165/2017 vide his judgment dated 23.04.2019 pending the disposal of the main Criminal Appeal in C.A.(MD).No.212/2019 pending on the file of this Honorable Court.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ANAND, 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 learned counsel appearing for the petitioners/ A-1 to A-4, A-6 and A-7, after arguing for some time is not pressing this miscellaneous petition for suspending the substantive sentence insofar as A-1 to A3 are concerned, may be for the reason that they have been attributed with fatal overtacts. Accordingly, he has made an endorsement to that effect. Recording the same, this



miscellaneous petition is dismissed as withdrawn in respect of A-1 to A-3.

2.The petitioners 4 to 6/A-4, A-6 and A-7, Viz., Ramesh S/o. Ganesan, Siva S/o. Kandhan and Radhakrishnan S/o.Chinnasamy are arrayed as A-4, A-6 and A-7 out of 7 accused in SC.No.165/2017 on the file of the Court of Additional District and Sessions Judge/ Special Court for E.C. and NDPS Act Cases, Pudukkottai. The Trial Court framed the following charges:-

A-1 120(b), 148, 341, 302 and 307 IPC

A-2 & A3 120(b), 148, 341, 302 and 307 r/w 149 IPC

A-4 120(b), 148, 341, 323, 302 r/w 149 and 307 r/w 149 IPC

A-5 120(b), 148, 341, 302 r/w 149 and 307 r/w 149 IPC

A-6 120(b), 148, 341, 307 and 302 r/w 149 IPC

A-7 120(b), 148, 341, 323, 302 r/w 149 and 307 r/w 149 IPC

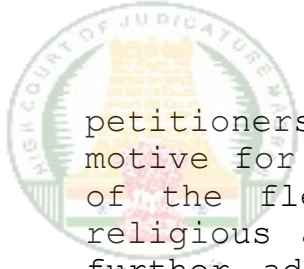
3.The petitioners/A-4, A-6 and A-7 were found guilty for the commission of the offences u/s.341, 304(I) r/w 149 IPC and apart from that A6 was found guilty for the commission of offence u/s 326 IPC and A4 and A5 were found guilty for the commission of offence u/s 326 r/w 149 IPC and were sentenced to imprisonment vide impugned judgment dated 23.04.2019 as follows:-

Rank of the Accused	Conviction u/s.	Sentence awarded
A-4, A-6 and A-7	341 IPC	To undergo rigorous imprisonment for 3 months and to pay a fine of Rs.500/- each with a default sentence of 15 days simple imprisonment each.
A-4, A-6 and A-7	304(I) r/w 149 IPC	To undergo imprisonment for life and to pay a fine of Rs.2000/- each with a default sentence of 1 year simple imprisonment each.
A6	326	To undergo rigorous imprisonment for 10 years and to pay a fine of Rs.2000/- with a default sentence of one year simple imprisonment.
A-4 and A-7	326 r/w 149 IPC	To undergo rigorous imprisonment for 10 years and to pay a fine of Rs.2000/- each with a default sentence of one year simple imprisonment each.

The sentences were ordered to run concurrently. Challenging the said conviction and sentence, the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 preferred the present appeal and pending appeal, they had filed the present petition seeking suspension of the substantive sentences of imprisonment.

<https://hcservices.ecourts.gov.in/hcservices/>

4.The primordial submission made by the learned counsel for the



petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 is that the motive for commission of the offence is that on account of erection of the flex board and with regard to the participation in the religious activities pertains to the temple festival and he would further add that the deceased himself was having bad antecedents including a murder case and though he was acquitted still his antecedents are bad. The learned counsel for the petitioner 4 to 6 also drawn the attention of this Court to witnesses especially the investigation officer - P.W.18 and the manner in which he gave evidence before the Court. He would further add that A-4 is said to have attacked P.W.1, but P.W.1 did not sustain any injury and though A-6 and A-7 alleged to have carried wooden logs, they did not participate in the commission of offence and they did not inflict any injury on the deceased and hence the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 are having a bright chance of success in this appeal, and prays for suspension of the substantive sentences of imprisonment.

5.Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that according to the prosecution all the accused have jointly participated in the occurrence, which lead to the murder of the younger brother of the defacto complainant's father and they have also been convicted with the aid of Section 148 I.P.C. also and the trial Court on proper appreciation of the entire evidence came to the conclusion, convicting and sentencing A-4, A-6 and A-7 accordingly and prays for dismissal of this petition.

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

7.A perusal and consideration of the evidence and judgment of the trial Court would disclose that fatal overtacts are attributed only against A-1 to A-3 and as rightly pointed out by the learned counsel for the petitioner A-4, A-6 and A-7 have not been attributed with fatal overtacts. The trial Court also commented upon the testimony of P.W.18 - Investigation Officer while giving evidence and however, did not recommend for departmental action against the concerned official. In the light of the above facts and circumstances, this Court is of the view that the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 are entitled for suspension of the substantive sentences of imprisonment pending this appeal.

8.In the result, the petition is partly allowed and the substantive sentence of imprisonment alone in respect of the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 is suspended and the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 are directed to be enlarged on bail on condition that the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 shall execute a bond for a sum of RS.10,000/- [Rupees ten thousand only] each with two sureties each for a like sum to the satisfaction of the learned Judicial



Magistrate, Keeranur and on further condition that the petitioners 4 to 6/appellants 4 to 6/A-4, A-6 and A-7 shall appear before the Committal Court, viz., the Court of Judicial Magistrate, Keeranur [PRC.No.26/2017] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

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10/06/2019

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

TO

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PUDUKOTTAI, PUDUKOTTAI DISTRICT.
- 2.THE JUDICIAL MAGISTRATE,
KEERANUR.
- 3.DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
- 4.THE INSPECTOR OF POLICE,
ANNAVASAL POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 5.THE SUPERINTENDENT,
CENTRAL PRISON,TRICHY.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

1 CC to MR.R.ANAND, Advocate (SR-9345[I] dated 10/06/2019)

ORDER
IN
CRL MP (MD) No.4699 of 2019
IN
CRL A (MD) No.212 of 2019
Date :10/06/2019

sj

AE/VR/SAR-III (12.06.2019) 6P 8C