



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

Tuesday, the Second day of July Two Thousand Nineteen

PRESENT

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

CRL MP(MD) No.5792 of 2019
IN
CRL A(MD) No.500 of 2018

1 MURUGAN
2 RAMARAJ
3 SANTHI

... PETITIONERS/APPELLANTS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
SOUTH POLICE STATION, RAJAPALYAM,
VIRUDHUNAGAR DISTRICT
Crime No.649/2016

... 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 of Imprisonment imposed by the learned District and Sessions Judge, Virudhunagar District at Srivilliputhur in S.C.No.2 of 2017 by the Judgment dated 25.09.2018 and enlarge the petitioners/ Appellants on bail, pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.S.DURAIPANDIAN, Advocate for the petitioners 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 petitioners/appellants are arrayed as A-1 to A-3 in SC.No.02/2017 on the file of the Court of Principal District and Sessions Judge, Virudhunagar District @ Srivilliputhur. The Trial Court framed the following charges:-

A-1 120(b), 302 and 201 IPC
A-2 120(b), 302 and 201 IPC
A-3 120(b), 302 and 201 r/w 34 IPC



2. The petitioners 1 & 2/A1 and A2 were found guilty for the commission of the offences u/s.120(b), 302 and 201 IPC and 3rd petitioner/A3 was found guilty for the commission of offences u/s 120(b), 302 and 201 r/w 34 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-1 to A-3	120(b) IPC	To undergo imprisonment for life and to pay a fine of Rs.10,000/- each with a default sentence of 3 years rigorous imprisonment each.
A-1 to A-3	302 IPC	To undergo imprisonment for life and to pay a fine of Rs.10,000/- each with a default sentence of 3 years rigorous imprisonment each.
A-1 & A-2	201 IPC	To undergo rigorous imprisonment for 7 years and to pay a fine of Rs.10,000/- each with a default sentence of two years rigorous imprisonment each.
A-3	201 r/w 34 IPC	To undergo rigorous imprisonment for 7 years and to pay a fine of Rs.10,000/- with a default sentence of two years rigorous imprisonment.

The sentences were ordered to run concurrently and set off was also given under Section 428 I.P.C. Challenging the said conviction and sentence, the petitioners/appellants/A-1 to A-3 preferred the present appeal and pending appeal, they had filed the present petition seeking suspension of the substantive sentences of imprisonment.

3. The learned counsel for the petitioners/appellants/A-1 to A-3 would submit that the case of the prosecution rests upon circumstantial evidence and even according to the prosecution, the deceased was the son of A-1 and A-3 and friend of A-2 and under the influence of alcohol he used to ill-treat his parents, sometimes verbally and sometimes physically and on one occasion he poured hot water on A-1 and fearing that he would do away with their lives, A-1 and A-3 with the aid of A-2, who is an auto driver decided to do away with the life of their son and accordingly, they asked A-3 to take her son to a liquor shop on 05.10.2016 and instructed A-2 to see that their son drank fully for the purpose of finishing him off and accordingly, the deceased was fully drunk and he was taken in the auto of A-2 and brought to the house of A-1 and thereafter, he was strangled and subsequently taken to a remote place and petrol was poured and he was burnt.



4.The primordial submission made by the learned counsel for the petitioners/appellants/A-1 to A-3 is that the neighbours of the house of A-1 and A-3 viz., P.Ws.3 to 5 had turned hostile and except the testimony of P.W.10, who is said to have seen the deceased, taken in the auto of A-2 by A-1 and A-3, no incriminating circumstances had been made by the prosecution connecting the petitioners/appellants with the commission of crime and hence, 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 through witnesses, documents and other materials the prosecution has proved all the chains of circumstances beyond reasonable doubt and considering the heinous nature of crime, 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.It is admitted case of the prosecution that the deceased is the son of A-1 and A-3 and he under the influence of alcohol ill-treated them, both verbally and physically and on one occasion he poured hot water upon his father/A-1 and according to the prosecution fearing that the acts of their son may result in their lives being lost, conspired with A-2, who is an auto driver, to do away with life of their son. As rightly pointed out by the learned counsel for the petitioner, the neighbours of A-1 and A-3 viz., P.Ws.3 to 5 have turned hostile and it is the evidence of P.W.10 that the deceased was taken in the Auto of A-2 by A-1 and A-3. Admittedly, it is not unusual for A-1 and A-3 to accompany their son and admittedly, A-2 was also the friend of the deceased. A cursory perusal of the impugned judgment coupled with testimonies of witnesses, which have been filed in the form of typed set of papers, prima-facie disclose that very many links are missing. It is also brought to the notice of the Court that the petitioners were on bail throughout during the trial. In the light of the above facts and circumstances, this Court is of the view that the petitioners/appellants/A-1 to A-3 are entitled for suspension of the substantive sentences of imprisonment pending this appeal.

8.In the result, the petition is allowed and the substantive sentence of imprisonment alone in respect of the petitioners/appellants/A-1 to A-3 is suspended and the petitioners/appellants/A-1 to A-3 are directed to be enlarged on bail on condition that the petitioners/appellants/A-1 to A-3 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, Rajapalayam and on further condition that the petitioners/appellants/A-1 to A-3 shall appear before the Committal Court, viz., the Court of Judicial Magistrate,



Rajapalayam [PRC.No.45/2016] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

sd/-
02/07/2019

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/ TRUE COPY /

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

TO

- 1.THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
 - 2.THE JUDICIAL MAGISTRATE,
RAJAPALAYAM.
 - 3.THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
 - 4.THE INSPECTOR OF POLICE
SOUTH POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
 - 5.THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
 - 6.THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.
 - 7.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.K.S.DURAIPANDIAN Advocate SR.No.10838

ORDER
IN
CRL MP (MD) No.5792 of 2019
IN
CRL A (MD) No.500 of 2018
Date : 02/07/2019

TK/PN/SAR.2/03.07.2019/3P/9C