



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

Thursday, the Eighteenth 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.6005 of 2019

IN

CRL A(MD) No.83 of 2019

1 BALAMURUGAN

...APPELLANT/ACCUSED No.1

2 JEGAN

...APPELLANT/ACCUSED No.2

Vs

STATE THROUGH,
THE INSPECTOR OF POLICE
KALAKAD POLICE STATION,
KALAKAD, TIRUNELVELI.
Crime No.238/2014

... RESPONDENT/COMPLAINANT

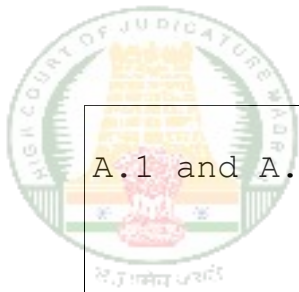
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the conviction and sentence passed by the learned IIIrd Additional District and Sessions Judge, Tirunelveli made in S.C.No.464/2015 dated 23.08.2018 pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.A.ALEXANDER, 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 are arrayed as A.1 and A.2 in S.C.No.464 of 2015, on the file of II Additional District and Sessions Judge, Tirunelveli and vide impugned judgment dated 23.08.2018, they were convicted and sentenced as follows:

Rank of the Accused	Conviction u/s	Sentence awarded
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A.1 and A.2	364 I.P.C.	Each to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.2,000/-, in default, each to undergo rigorous imprisonment for one year.
	302 I.P.C.	Each to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, each to undergo rigorous imprisonment for one year.

The sentences of imprisonment were ordered to be run concurrently. The trial Court has also granted set-off under Section- 428 Cr.P.C. and challenging the legality of the conviction and sentence, the petitioners/A.1 and A.2 have filed the present appeal and pending the appeal, he had filed this petition seeking suspension of the substantive sentences of imprisonment.

2. The learned Counsel appearing for the petitioners/A.1 and A.2 would submit that the case of the prosecution is based upon the circumstantial evidences and except, the alleged extra judicial confession marked as Ex.P.7 given by A.1 to P.W.11, there are no other incriminating materials projected by the prosecution to connect the petitioners/A.1 and A.2 in the commission of crime 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 P.W.3 and P.W.4 had spoken about the fact that the deceased lie in an inebriated condition and he was taken in the bike by the accused and coupled with the fact of extra judicial confession given by A.1 and the recovery of incriminating articles in pursuance of the admissible portion of confession statement marked as Exs.P.9 and P.22, supported by the scientific evidence, the prosecution was able to link all circumstances connecting the accused with the commission of crime and hence, prays for dismissal of this petition.

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

5. The case of the prosecution is based upon the circumstantial evidences and the testimonies of P.W.3 and P.W.4 would prima facie disclose that they have seen both the accused have taken the deceased in their bike and that apart, the extra judicial confession given by A.1 has corroborated to the recovery of incriminating articles coupled to the confession statement given by the accused, coupled with the scientific evidence, in the considered opinion of this Court, the points raised by the learned Counsel appearing for



the petitioners/A.1 and A.2 can be considered and appreciated only at the time of final disposal of the Criminal Appeal.

6. This Court, while dismissing the earlier Criminal Miscellaneous Petition in Crl.M.P.(MD)No.2067 of 2019, has also directed the Registry to prepare the appeal papers and list the appeal for hearing during the first week of April 2019 and accordingly, the typed set of papers have also been prepared.

7. In the result, this Criminal Miscellaneous Petition is dismissed.

8. The Registry is directed to list the Criminal Appeal for final disposal on 11.09.2019.

sd/-
18/07/2019

/ TRUE COPY /

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

TO

1.THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRINELVELI.

2.THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

3.THE INSPECTOR OF POLICE
KALAKAD POLICE STATION, KALAKAD, TIRUNELVELI.

4.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.

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

COPY TO:

THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.A.ALEXANDER Advocate SR.No.11959

ORDER IN
CRL MP (MD) No.6005 of 2019
IN
CRL A (MD) No.83 of 2019
Date :18/07/2019

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