



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

Friday, the Second day of August Two Thousand Nineteen

PRESENT

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

CRL MP(MD) No.6057 of 2019
IN
CRL A(MD) No.212 of 2019

1.RAJENDRAN
2.CHINNA DURAI
3.SATHEESH

... PETITIONERS/ACCUSED
Nos.1,2 and 3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ANNAVASAL POLICE STATION,
PUDUKKOTTAI DISTRICT.
Crime No.95/2017

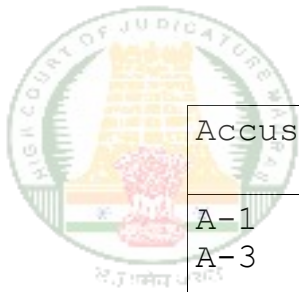
... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge us 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.

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 petitioners and of Mr.S.CHANDRASEKAR, 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 herein are A-1 to A-3 and they, along with four other accused, were tried and convicted in S.C. No.165/2017 on the file of the Court of Addl. District & Sessions Judge/Special Court Services Act Cases, Pudukottai, vide the impugned judgment dated 23.4.2019, as under :-



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Accused	Section	Sentence
A-1 to A-3	U/s 148 IPC	Convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- each, in default to undergo simple imprisonment for a period of three months.
	U/s 341 IPC	Convicted and sentenced to undergo rigorous simple imprisonment for a period of three months and to pay a fine of Rs.500/-, in default to undergo simple imprisonment for a period of fifteen days.
	U/s304(I) IPC	Convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of one year.
A-1	U/s 326 IPC	Convicted and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of one year.
A-2 & A-3	U/s 326 r/w 149 IPC	Convicted and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of one year.

The sentences were ordered to run concurrently. The petitioners/A-1 to A-3, challenging the legality of the said conviction and sentence, have filed the present appeal and pending disposal of the appeal, have filed this petition praying for suspension of the substantive sentence of imprisonment.

2. It is to be noted at this juncture that A-1 to A-4, A-6 and A-7 filed CrI. M.P. (MD) No.4699/2019 and the learned counsel appearing for the petitioners has not pressed the said petition insofar as A-1 to A-3 were concerned and it was dismissed as withdrawn on 10.6.2019 and A-4, A-6 and A-7 were granted suspension of sentence of imprisonment for the reason that they have not been attributed with fatal overt acts.



3. Learned counsel appearing for the petitioner submits that though the case of the prosecution was built upon eye witness account, there are very many infirmities and inconsistencies in the testimony of the witnesses and the prosecution has failed to prove the case beyond reasonable doubt and further pointed out that even as per the case of the prosecution, A-3 was attributed with an overt act of attacking the deceased on the chest with a wooden log and further drew the attention of this Court to the testimony of P.W.14, the doctor, who conducted autopsy and submitted that as per the post-mortem report, Ex.P-10, marked through P.W.14, the said injury has not at all been noted and it was not the cause of death and the petitioner/A-3 was also on bail throughout trial.

4. Per contra, Mr.Chandrasekar, learned Addl. Public Prosecutor appearing for the respondents submitted that the accused were charged for the commission of offence u/s 148 IPC also and, therefore, whether they have been attributed with fatal overt act or not is wholly immaterial and prays for dismissal of this petition.

5. This Court gave its careful consideration to the submissions on either side and also perused the materials available on record.

6. This Court, while granting the benefit of suspension of sentence of imprisonment to A-4, A-6 and A-7 has noted that they have not been attributed with fatal overt acts. In the case on hand, insofar as the petitioner/A-3 is concerned, he is said to have attacked the deceased with a wooden log on the chest, but a perusal of the testimony of P.W.14, the doctor, who conducted autopsy along with Ex.P-10, the post-mortem certificate, it is seen that P.W.14 has not noted any injury on the chest and it is also not the cause of death. Further, the petitioner/A-3 was also on bail through the trial.

7. In the light of the above facts and circumstances, this Court is inclined to suspend the substantive sentence of imprisonment imposed on the petitioner/A-3 alone. This criminal miscellaneous petition insofar as the petitioner/A-3 is allowed and the petitioner/A-3 is directed to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) along with two sureties, each for a likesum, to the satisfaction of the learned Judicial Magistrate, Keeranur and on further condition that the petitioner/A-3 shall appear before the Committal Court, viz., the Court of Judicial Magistrate, Keeranur (PRC No.26/2017) at 10.30 a.m., on the first working day of every English calendar month until further orders.

8. Insofar as the petitioners/A-1 and A-2 are concerned, they were said to have attacked the deceased with lethal weapons and as such they are not entitled for suspension of sentence.



9. Accordingly, while this petition insofar as the petitioner/A-3 is allowed as above, this petition insofar as the petitioners/A-1 and A-2 stand dismissed.

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sd/-
02/08/2019

/ TRUE COPY /

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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR EC AND NDPS ACT CASES, PUDUKOTTAI.
3. THE JUDICIAL MAGISTRATE,
KEERANUR.
4. THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
5. THE INSPECTOR OF POLICE,
ANNAVASAL POLICE STATION,
PUDUKKOTTAI DISTRICT.
6. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
7. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.R.ANAND Advocate SR.No.12826

ORDER
IN
CRL MP(MD) No.6057 of 2019
IN
CRL A(MD) No.212 of 2019
Date :02/08/2019

gln
TK/VR/SAR.3/02.08.2019/4P/9C