



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

Monday, the Twenty Eighth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice R.SUBBIAH
and

The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.10416 of 2018

IN

CRL A(MD) No.542 of 2018

1 RANJITH @ RANJITHKUMAR

2 ARIVU RAJA

3 PERUMAIYEE

4 PANJU@ PANAJVARNAM

... PETITIONER/APPELLANT

Vs

STATE OF TAMIL NADU REP.BY
THE INSPECTOR OF POLICE
DEVADHANPATTI POLICE STATION,
THENI DISTRICT.
Crime No.371 of 2016

... 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 sentence of imprisonment imposed in Judgment dated 19.11.2018 made in S.C.No. 102/2017 on the file of the Additional District and Sessions judge, Theni at Periyakulam and enlarge the petitioners on bail pending disposal of the appeal and thus render justice.

PRAYER IN CRL A(MD) No.542 of 2018:

To set aside the conviction and sentence imposed in Judgment dated 19.11.2018 made in S.C.No.102 of 2017 on the file of the Additional District and Sessions Judge, Theni at Periyakulam.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.DUR AISAMI, Senior Counsel for Mr.MUTHUMANI DOR AISAMI, Advocate for the petitioners and of Mr.K.DINESH BABU, Additional Public Prosecutor for the respondent, the court made the following order:-

[Order of the Court made by R.SUBBIAH,J.]

Petitioners are arrayed as accused in S.C.No.102 of 2017 on the

file of Additional District and Sessions Judge, Theni and under judgment dated 19.11.2018 they have been convicted for offences u/s.302 r/w 34 and 341 IPC and sentenced as follows:

Accused	Offence	Sentence
A1	302 IPC	Life imprisonment + fine of Rs.10,000/- i/d 1 year imprisonment
A2	302 IPC	Life imprisonment + fine of Rs.10,000/- i/d 1 year imprisonment
A3	302 r/w 34 IPC	Life imprisonment + fine of Rs.10,000/- i/d 1 year imprisonment
	341 IPC	One month imprisonment + fine of Rs.500/- i/d 1 week imprisonment
A4	341 IPC	One month imprisonment + fine of Rs.500/- i/d 1 week imprisonment
	302 r/w 34 IPC	Life imprisonment + fine of Rs.10,000/- i/d 1 year imprisonment

Petitioners have come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.

2.The case of the prosecution is that Panju @ Panjavarnam (A4) is the wife of the deceased viz., Ramesh, A1 and A2 are the brother-in-laws and A3 is the mother-in-law of the deceased. Due to the dispute with regard to settlement of a house in favour of A4, on 11.07.2016, there was a quarrel between the deceased and A4. Thereafter, A4 along with his brothers murdered the deceased. The specific overt act attributed against A3 and A4 is that in order to facilitate A1 and A2 to stab the deceased on his chest with knife, A3 and A4 have caught hold of the deceased.

3.Learned Senior Counsel for petitioners submitted that A1 and A2 have also sustained injuries and the same has not been taken note of. He also submitted that P.Ws.1, 2 and 3 turned hostile and P.W.9, who claimed to be the eye witness to the occurrence, is a tutored witness of the prosecution. Further, the evidence of P.W.4 contradicts the version of P.W.9. Therefore, the Trial Court has erred in convicting the accused solely based on the evidence of P.W.4 and P.W.9. He further submitted that A4 is having a 1 1/2 years age child. Submitting the above, the learned Senior Counsel prays for the grant of relief of suspension of sentence to the petitioners 3 and 4 and he is withdrawing this petition in respect of the petitioners 1 and 2. He has also made an endorsement to that effect.

4.Per contra, the learned Additional Public Prosecutor contended that the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in <https://hcservices.courts.gov.in/hcservices/> He strongly opposed the grant of the relief of suspension of sentence to petitioners.



5.Considering the facts and circumstances of the case that it is not possible for the Court to take the Criminal Appeal in the nearest future, that there are arguable points and according to learned Senior Counsel for petitioners, there are several infirmities in the prosecution case in respect of petitioners, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to the petitioners 3 and 4 herein. Keeping in view of these facts, we are inclined to suspend the substantive portion of sentence imposed on the petitioners 3 and 4.

6.Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioners 3 and 4 and they are directed to be enlarged on bail on condition that they shall execute a bond in 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, Periakulam, and on further condition that petitioners shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal. In view of the endorsement made, this petition is dismissed as withdrawn in respect of the petitioners 1 and 2.

sd/-

28/01/2019

/ TRUE COPY /

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

TO

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THENI AT PERIYAKULAM.
- 2.THE JUDICIAL MAGISTRATE, PERIAKULAM.
- 3.THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
- 4.THE INSPECTOR OF POLICE,
DEVADHANPATTI POLICE STATION, THENI DISTRICT.
- 5.THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.MUTHUMANI DORAISAMI Advocate SR.No.1564

ORDER IN
CRL MP(MD) No.10416 of 2018
IN
CRL A(MD) No.542 of 2018
Date :28/01/2019

TK/VR/SAR-2/30.01.2019/3P/8C