



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

Tuesday, the Twenty Second day of January Two Thousand Nineteen

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PRESENT

The Hon`ble Mr.Justice R.SUBBIAH
and
The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.9393 of 2018
IN
CRL A(MD) No.507 of 2018

MALAIRAJ @ OTTAIYAN

... PETITIONER/ APPELLANT/
ACCUSED NO.2

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
UMATCHIKULAM CIRCLE,
KARUPPAYURANI POLICE STATION,
MADURAI DISTRICT.
CRIME NO.306/2017

... RESPONDENT/ 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 imposed on the petitioner/appellant/accused NO.2 by the learned III Additional District and Sessions Judge (PCR), Court, Madurai in Spl.SC.No.77/2017 dated 18.04.2018 and enlarge me on bail 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.M.JEGADEESH PANDIAN, Advocate for the petitioner and of Mr.K.DINESHBABU, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

Petitioner is arrayed as second accused in S.C.No.77 of 2017 on the file of learned III Additional District & Sessions Judge (PCR Court), Madurai and under judgment dated 18.04.2018 he has been convicted and sentenced as follows:

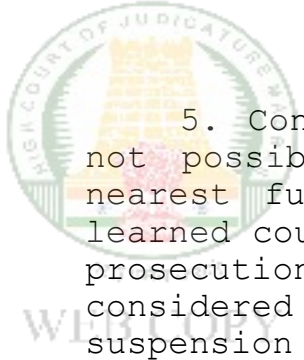
Offence	Sentence
Under Sections 341 r/w 34 r/w 3 (2) (va) of SC/ST (POA) Amendment Act, 2015	To undergo one month simple imprisonment with a fine of Rs.500/-, in default, to undergo simple imprisonment for 7 days.
Under Sections 3 (1) r/w 34 of SC/ST (POA) Amendment Act, 2015	To undergo rigorous imprisonment for three years with a fine of Rs.1,000/- in default, to undergo six months for simple imprisonment.
Under Sections 307 r/w 34 of IPC r/w 3(2) (v) of SC/ST (POA) Amendment Act, 2015	To undergo imprisonment for life with fine of Rs.3,000/-, in default, to undergo simple imprisonment for one year.

Petitioner has come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondent.

3.Today, when the matter is taken up for consideration, the learned counsel for the petitioner submitted that the only overact attributed against the petitioner/second accused is that he made an attempt to attack the deceased with aruval along with the second accused. But he has not caused any injury. However, he was convicted for the offence under Section 307 r/w 34 of IPC r/w 3(2) (v) of SC/ST (POA) Amendment Act, 2015. The learned counsel would further submit that in respect of the first accused, this Court has suspended the sentence by order dated 09.07.2018. He would further submit that this Court has granted an order of suspension of sentence in respect of the third accused also.

4.Per contra, Mr.K.Dineshbabu, 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 its entirety. He strongly opposed the grant of the relief of suspension of sentence to petitioner.



5. Considering the facts and circumstances of the case, 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 counsel for petitioner, there are several infirmities in the prosecution case in respect of petitioner, hence we are of the considered view that it is a fit case to grant the relief of suspension of sentence to petitioner herein. Keeping in view these facts, we are inclined to suspend the substantive portion of sentence imposed on petitioner.

6. Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner and he is directed to be enlarged on bail on condition that he shall execute a bond in a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties each for a like sum to the satisfaction of the learned III Additional District and Sessions Judge (PCR Court), Madurai and on further condition that petitioner shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-
22/01/2019

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

TO

1. THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE
(PCR COURT), MADURAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
UMATCHIKULAM CIRCLE, KARUPPAYURANI POLICE STATION,
MADURAI DISTRICT.
3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.M.JEGADEESH PANDIAN Advocate SR.No.1087

ORDER
IN
CRL MP (MD) No.9393 of 2018
IN
CRL A (MD) No.507 of 2018
Date :22/01/2019

MS/VR/SAR-2/30.01.2019/3P.6C