



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

Thursday, the Fifth day of September Two Thousand Nineteen

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PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.6722 of 2019

IN

CRL A(MD) No.333 of 2019

MURUGAN

... PETITIONER/APPELLANT/ACCUSED NO.4

Vs

STATE REP BY
THE INSPECTOR OF POLICE
KARIMEDU POLICE STATION,
IN CR.NO.99/2013,
MADURAI DISTRICT.

... 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 in S.C.No.103 of 2014 dated 13.04.2019 on the file of the V Additional District and Sessions Judge, Madurai and enlarge them on bail pending disposal of the CRL A(MD) No.333 of 2019.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.AK.AZAGARSAMI, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

The petitioner is arrayed as A4 in S.C.No.103 of 2014, on the file of the learned V Additional District and Sessions Judge, Madurai, and vide the impugned Judgment, dated 13.03.2019, he was convicted and sentenced as follows:-



Rank of the Accused	Conviction	Sentence
A4	148 IPC	To undergo 3 years R.I.
	302 r/w 149 IPC	To undergo life imprisonment and to pay a fine of Rs.5000/-, in default S.I. for two months
	341 r/w 149 IPC	To undergo one month Simple Imprisonment.I.

2. Challenging the legality of the said conviction and sentence, the petitioner / A4 has preferred the present appeal and pending the appeal, he has filed this petition seeking for suspension of sentence of imprisonment.

3. The learned counsel appearing for the petitioner submitted that this Court under similar circumstances had granted suspension of sentence to A5, A6 and A7 respectively in Crl.M.P.(MD)No.4689 of 2019 in Crl.A(MD)No.238 of 2019, dated 19.06.2019, in Crl.M.P.(MD) No.5888 of 2019 in Crl.A(MD)No.283 of 2019, dated 18.07.2019, and in Crl.M.P.(MD)No.4735 of 2019 in Crl.A(MD)No.247 of 2019, dated 18.06.2019.

4. The learned counsel further submitted that P.Ws.1 and 2, who were the eye-witnesses examined by prosecution, have not spoken anything regarding the overt act that is attributable to the petitioner. Therefore, the learned counsel submitted that the suspension of sentence may be granted in favour of the petitioner.

5. Per contra, the learned Additional Public Prosecutor appearing for the State would submit that P.Ws.1 and 2 have specifically pointed out the overt act regarding this petitioner and the same is corroborated by the Postmortem Doctor, who was examined as P.W.12. The learned counsel further submitted that the overt act attributed against the petitioner is shown as injury No.11 in the Postmortem Certificate. The learned counsel further submitted that P.Ws. 1 and 2 were not immediately cross-examined and they were recalled after a considerable period of time and in the meanwhile, they were won over and hence they gave a completely different version in the cross-examination. The learned counsel, therefore, submitted that even though P.Ws.1 and 2 did not support the case of the prosecution in the cross-examination, that does not in any way efface the statement made by them when they were examined in chief. The learned Additional Public Prosecutor further submitted that there are no previous cases against the petitioner. The learned Additional Public Prosecutor therefore vehemently opposes the grant of suspension of sentence in favour of the petitioner.



6. This Court has carefully considered the submission made on either side and perused the materials available on record.

7. A perusal of the orders (Crl.M.P.(MD)No.4689 of 2019 in Crl.A(MD)No.238 of 2019, in Crl.M.P.(MD)No.5888 of 2019 in Crl.A(MD)No.283 of 2019 and in Crl.M.P.(MD)No.4735 of 2019 in Crl.A(MD)No.247 of 2019), would disclose the fact that the petitioner / A4 also stands on the very same footing as that of the other accused persons, who have been granted bail by this Court. That apart, the petitioner has been convicted with the aid of Section 34 of IPC.

8. This Court taking into consideration the facts and circumstances of the case and in view of the orders passed in favour of similarly placed accused persons, deems it fit to suspend the substantive sentences, pending disposal of the Criminal Appeal.

9. In the result, this Petition is allowed and substantive sentence of imprisonment alone in respect of the petitioner / A4 is suspended and the petitioner / A4 is directed to be enlarged on bail subject to the following conditions:-

(a). The petitioner / A4 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with 2 sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Madurai.

b. The petitioner / A4 shall stay at Trichy District and report before the cantonment Police Station daily at 10.30 a.m., and 5.30 p.m., until further orders.

sd/-

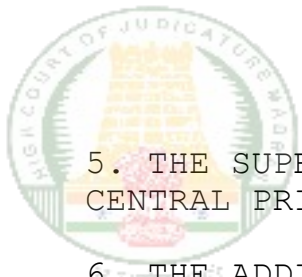
05/09/2019

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

TO

1. the v additional district and sessions judge, madurai.
2. THE JUDICIAL MAGISTRATE NO.V, MADURAI.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
4. THE INSPECTOR OF POLICE
KARIMEDU POLICE STATION,
MADURAI DISTRICT.



5. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.AK.AZAGARSAMI Advocate SR.No.14827

ORDER

IN

CRL MP(MD) No.6722 of 2019

IN

CRL A(MD) No.333 of 2019

Date :05/09/2019

TR/VR/SAR-III (10.09.2019) 4P 8C