



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

Wednesday, the Seventh 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.6856 of 2019
IN
CRL A(MD) No.341 of 2019

1 MANIKANDAN
2 IYYAPPAN
3 BABU

... PETITIONERS/ APPELLANTS/
ACCUSED 1 TO 3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
RAJAKKAMANGALAM POLICE STATION,
CRIME NO.131 OF 2011

... 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 by the Learned Additional District and Sessions Judge (Fast Track) Nagercoil, Kanyakumari Disrict dated 11.04.2019 in S.C.No.53 of 2012 and enlarge the petitioners on bail, pending disposal of the main Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.N.ANANDHAPADMANABHAN, Advocate for M/S.P.MUTHUVEL, Advocate for the petitioner 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**)

After some arguments, the learned Counsel appearing for the petitioners seeks permission of this Court to withdraw this petition, insofar as the first petitioner/A.1 is concerned and also made an endorsement to that effect.



2. In the light of the endorsement made, this Criminal Miscellaneous Petition is dismissed as withdrawn insofar as the first petitioner/A.1 is concerned.

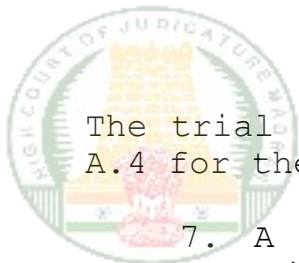
3. The primordial submission made by the learned Counsel appearing for the petitioners/A.2 and A.3 are that as per the testimony of the Doctor, who conducted autopsy viz., P.W.11, coupled with the postmortem certificate and final opinion, marked as Exs.P.17 and P.18 respectively, the deceased died on account of and as a consequence of head injury sustained by the deceased, viz., injury No.1 and the rest of the injuries, appears to have inflicted under the lower part of the body of the deceased and though A.4 has been attributed with the overt act, attacked the deceased under the lower limb of the body, he has been acquitted by the trial Court and would further add that the petitioners/A.2 and A.3 are not having any antecedents and hence, prays for suspension of the substantive sentences of imprisonment of the petitioners/A.2 and A.3.

4. Mr.S.Chandrasekar, learned Additional Public Prosecutor, appearing for the State, would submit that A.1 to A.3 have been attributed with the individual overt act and they were also charged for the commission of offences under Section 302 I.P.C., and four eye-witnesses have been cited by the prosecution and their testimonies would corroborate each other and the materials as to the overt act on the petitioners/A.2 and A.3 and also made a submission that the points urged by the learned Counsel appearing for the petitioners/A.2 and A.3 can be appreciated only at the time of final disposal of the appeal and hence, prays for dismissal of this petition.

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

6. The trial Court, vide impugned judgment, dated 11.04.2019, made in S.C.No.53 of 2012, has charged, tried and convicted A.1 to A.3 as follows:

Rank of the Accused	Conviction u/s	Sentence awarded
A.1 to A.3	341 I.P.C.	Each to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.500/- each, in default one month simple imprisonment for each.
	302 I.P.C.	Each to undergo life imprisonment and to pay a fine of Rs.5000/- in default to undergo simple imprisonment for one year for each.



The trial Court had totally acquitted A.4 and also acquitted A.1 to A.4 for the commission of offence under Section 294(b) I.P.C.

7. A perusal of the testimony of the Doctor, who conducted autopsy viz., P.W.11, would state that the deceased had died on account of the complications assigned out of Injury No.1 i.e, head injury and even according to the prosecution, rest of the attacks have been made under the lower limb as well as the arms of the deceased. The postmortem report marked as Ex.P.17 as well as the final opinion marked as Ex.P.18 would *prima facie* indicate that the deceased died on account of the head injury. It is also to be noted at this juncture that A.4 has been attributed with almost similar overt act as that of A.1 to A.3, was acquitted by the trial Court and the State is yet to prefer an appeal challenging the acquittal. That apart, as to the sort of injury/ overt act attributed as against A.3 and A.4, there appears to be some contradictions.

8. The learned Counsel appearing for the petitioners/A.2 and A.3 would submit that throughout the trial, the petitioners/A.2 and A.3 are in bail and they are not having any antecedents. The said submission is not seriously disputed by the learned Additional Public Prosecutor appearing for the State.

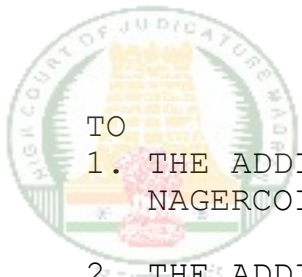
9. In the light of the above facts and circumstances, this Court is inclined to suspend the substantive sentences of imprisonment pending the appeal.

10. In the result, the petition is ordered and the substantive sentence of imprisonment alone in respect of the petitioners/A.2 and A.3 is suspended and the petitioners/A.2 and A.3 are directed to be enlarged on bail on condition that each of the petitioners/A.2 and A.3 shall execute a bond for a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Nagercoil and on further condition that the petitioners/A.2 and A.3 shall appear before the Committal Court, viz., the Court of Judicial Magistrate No.I, Nagercoil, [PRC.No.2/2012] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

sd/-
07/08/2019

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



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FAST TRACK),
NAGERCOIL, KANYAKUMARI DISTRICT.
 2. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
NAGERCOIL.
 3. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.
 4. THE INSPECTOR OF POLICE
RAJAKKAMANGALAM POLICE STATION.
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2. C.C. to M/S.P.MUTHUVEL Advocate SR.No.13098

ORDER
IN
CRL MP(MD) No.6856 of 2019
IN
CRL A(MD) No.341 of 2019
Date :07/08/2019

MS/VR/SAR-1/08.08.2019/4P.8C