

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl.M.P.Nos.19323, 19325 to 19327 of 2019 in

Crl.A.Nos.927, 929 to 931 of 2019

Ramachandran ... Petitioner/1st accused
in Crl.M.P.No.19323/2019

(Now the petitioner is convicted prisoner
No.CP.No.22163, Central Prison, Salem.)

Ravichandran ... Petitioner/2nd accused
in Crl.M.P.No.19325/2019

(Now the petitioner is convicted prisoner
No.CP.No.22161, Central Prison, Salem.)

Raguraman ... Petitioner/3rd accused
in Crl.M.P.No.19326/2019

(Now the petitioner is convicted prisoner
No.CP.No.22166, Central Prison, Salem.)

Dhanapal ... Petitioner/4th accused
in Crl.M.P.No.19327/2019

(Now the petitioner is convicted prisoner
No.CP.No.22159, Central Prison,
Coimbatore.)

Vs

State represented by
The Inspector of Police
Namakkal Police Station
Namakkal District.
Crime No.98 of 2017

... Respondent/Complainant in
all Crl.M.Ps.

Common Prayer: Criminal Miscellaneous Petitions filed under Section 389(1) of Criminal Procedure Code praying to enlarge the petitioners on bail by suspending the sentence imposed by the Additional District and Sessions Court, Namakkal, in S.C.No.91 of 2018 by order dated

In all CrI.MPs.

For Petitioners : Mr.R.Vivekanandan

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

COMMON ORDER

(Order of the Court was made by N.KIRUBAKARAN.J.,)

The matter is heard through "Video Conferencing".

2.These appeals have been filed by the convicts A1 to A4 against the conviction dated 06.08.2019 imposed on them by the trial Court for murdering one Manikandan during Pongal festival on 29.01.2017. The present petitions have been filed by the respective convicts for suspending the sentence imposed on them.

3.The facts narrated in the trial Court's judgment would reveal that there was a quarrel between the deceased Manikandan and the convicts with regard to Kabadi team as Manikandan had joined another team. On the fateful day, when the deceased was alone, the convicts gathered together and attacked the deceased, due to which, he succumbed to injuries. Therefore, a case has been filed and conviction has been imposed.

4.Mr.R.Vivekanandan, learned counsel appearing for the petitioners would point out that there are lot of contradictions in the evidence, especially the eye-witnesses who were supposed to have witnessed the attack. According to P.W.1 and P.W.4, first accused alone attacked the deceased with knife whereas other witnesses have stated that the other accused had caught hold of the deceased and first accused attacked. According to P.W.2, first accused attacked and fourth and fifth accused caught hold of the deceased. According to P.W.3, first accused attacked and seventh and eighth accused caught hold of the deceased. Pointing out these contradictions, the learned counsel for the petitioners would submit that on wrong appreciation of evidence, the trial Court convicted the accused persons, when there are contradictions with regard to number of persons who involved in the attack. Therefore, he prays this Court to suspend the sentence against the petitioners.

5.On the other hand, Mrs.M.Prabhavathi, learned Additional Public Prosecutor would oppose the petition stating that the overt act of each accused has been categorically stated by the witnesses, especially the injured witnesses P.W.1 and P.W.2.

6.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent

and perused the entire materials available on records.

7. The convicts are from the same village. Admittedly, it is only due to a quarrel in the village between the petitioners and deceased, the attack was made. This Court has already granted bail to the sixth and seventh accused in Crl.A.No.563 of 2019 on 03.12.2019.

8. A perusal of evidence would show contradictions with regard to the persons who are involved in the attack and there is a clear case of evidence only against the first accused. All the witnesses have spoken that the first accused only attacked the deceased with knife and other accused persons had only caught hold of the deceased. Considering the above facts and submissions, this Court is inclined to dismiss the prayer against the first accused. Taking into consideration that the sixth and seventh accused, who are said to have caught hold of the deceased were already granted bail by this Court, this Court is inclined to grant bail to the accused 2 to 4. Accordingly, the substantive sentence of imprisonment imposed by the learned Additional and District Sessions Judge, Namakkal, against the accused 2 to 4 alone are suspended on the following conditions:

(*) (i) The accused 2 and 3 are directed to execute their own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each before the Superintendent of Prison, Central Prison, Coimbatore and the 4th accused is directed to execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of Prison, Central Prison, Coimbatore, in view of the prevailing pandemic situation."

(ii) The accused 2 to 4 must also appear before the learned Judicial Magistrate No.I, Namakkal, on the first working day of every month at about 10.30 a.m., pending appeals, until further orders.

(iii) The petition filed by the first accused in Crl.M.P.No.19323 of 2019 in Crl.A.No.927 of 2019 is dismissed.

-sd/-

31/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

(*) Being Mentioned as per order of this court dated 04/08/2020 in CRL.M.P.No.19325 & 19326/2019 in CRL.A.No.929 & 930/2019

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
NAMAKKAL.

2 THE JUDICIAL MAGISTRATE NO.I
NAMAKKAL.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

4 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON, SALEM.

**(*)5 THE SUPERINTENDENT OF PRISON
CENTRAL PRISON, COIMBATORE.**

6 THE INSPECTOR OF POLICE,
NAMAKKAL POLICE STATION,
NAMAKKAL DISTRICT.

7 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.K.T.S.SIVAKUMAR Advocate on payment of necessary
charges

Order
in
CRL MP.19323, 19325 & 19327/2019
in
CRL A.927, 929 to 931/2019
Date :31/07/2020

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TA-19/08/2020

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