



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

Friday, the Thirty First day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1522 of 2020
IN
CRL A(MD) No.89 of 2020

SAKTHI VENKATESH @ VENKATESH
(NOW CONFINED AT
CENTRAL PRISON, PALAYANKOTTAI) ... PETITIONER/APPELLANT/ACCUSED-1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KOPPAMPATTI POLICE STATION,
THOOTHUKUDI DISTRICT,
CRIME NO.36/2017 ... RESPONDENT/RESPONDENT/COMPLAINANT

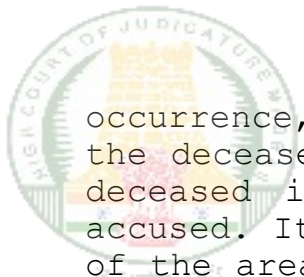
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the learned II Additional District and Sessions Judge, Thoothukudi in S.C.No.295 of 2018, dated 04.09.2019 and release the petitioner on bail 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 M/S.G.BHAGAVATH SINGH, Advocate for the petitioner and of MR.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The first accused in Sessions Case No.295 of 2018 on the file of the Second Additional Sessions Judge, Thoothukudi has preferred this appeal against conviction and sentence under Section 302 IPC.

2. There are totally five accused in this case. The case of the prosecution is that the accused and the deceased are friends. The deceased is an auto driver and was also doing real estate business and he used to consume liquor and enter into the area of the accused and used to use filthy language. While so, two months prior to the



occurrence, in a scuffle between the deceased and second accused, the deceased pushed the second accused from his two wheeler and the deceased in an inebriated mood made allegations against all the accused. It is also stated that he proclaimed himself to be a leader of the area like Rocketraja. The further case of the prosecution is that on 06.06.2017 at 7.30 p.m., the accused conspired together and decided to eliminate the deceased and in pursuance thereof, on 07.06.2017, the accused called the deceased to the scene of occurrence and provided excess liquor to him and thereafter, the accused Nos.1 and 2 attacked him with Aruval and Knife respectively and caused his death.

3.Mr.G.Bhagavathi Singh, learned counsel for the petitioner would submit that there is no eye witness to the occurrence and the prosecution relies only circumstantial evidence. It is the submission of the learned counsel that there is no proper link and the conviction is only on the basis of the evidence of P.W.7 and recovery of M.Os.7 and 8. It is further stated that P.W.7 is a close relative of the deceased and hence it is not safe to convict the accused on the basis of P.W.7's evidence.

4.Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, submitted that even though there is no eye witness to the occurrence, the circumstantial evidence would categorically establish the involvement of the accused in this case. It is further stated that P.W.4 has seen the deceased just prior to the occurrence and the confession and recovery tallied with the blood group of the deceased. According to the learned Additional Public Prosecutor, the prosecution has proved the case beyond reasonable doubt.

5.Heard the rival submissions and perusal the materials available on record.

6.A perusal of records would show that P.W.7 in his evidence admitted that he is relative of the deceased. P.W.4 has deposed that just prior to the occurrence, he saw only the deceased was standing in the scene of occurrence and he is specifically deposed that no other person was available. It is to be noted that evidence is lacking to establish motive for the occurrence and last seen theory.

7.In the light of the above facts, this Court is of the opinion that during the pendency of the appeal, the petitioner is entitled for suspension of sentence. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned II Additional District Judge, Thoothukudi.



ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar Card or Bank Passbook to ensure their identity.

iii. The petitioner shall appear before the learned II Additional District and Sessions Judge, Thoothukudi, at 10.30 a.m. on the first working day of every English Calendar month until further orders.

iv. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 Cr.P.C. and appear before the Committal Court on any other day, as determined by the Committal Court, in lieu of the day on which they would absent.

sd/-
31/07/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

- 1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE, THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE
KOPPAMPATTI POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAIYANKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.G.BHAGAVATH SINGH, Advocate (SR-5897[I] dated 04/08/2020)

ORDER
IN
CRL MP(MD) No.1522 of 2020
IN
CRL A(MD) No.89 of 2020
Date :31/07/2020

RJ2

JM/JC/SAR 2/07.08.2020/3P/6C

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