



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

Friday, the Ninth day of October Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2449 of 2020
IN
CRL A(MD) No.286 of 2020

1 S.SELVAM @ SELVARAJ

2 S.BALU @ BALASUBRAMANIAN

... APPELLANT/ACCUSED NOS.1 & 2

Vs

STATE REP.BY

THE DEPUTY SUPERINTENDENT OF POLICE,
ALANGUDI, PUDUKKOTTAI DISTRICT.

... 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 upon the petitioners by the learned Principal District Special And Sessions Judge, Pudukkottai in S.C.No.33/2015 dated 11.07.2019 to undergo 5 years rigorous imprisonment and to pay a fine of Rs.1000/- and in default of payment of fine to undergo three months simple imprisonment for the alleged offence U/s 307 of IPC and enlarge them on bail pending disposal of the above Criminal Appeal.

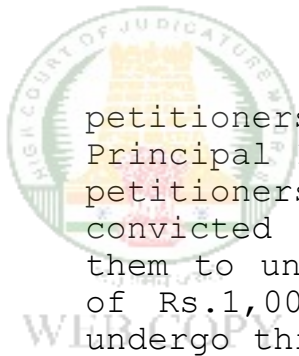
Prayer in CRL A(MD) No.286 of 2020:

To set aside the Judgment and conviction sentence dated 11.07.2019 in S.c.No.33 of 2015 on the file of the Principal District Special and Sessions Court, Pudukkottai and acquit the appellants of the charge against them u/s.307 of IPC.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.B.S.MELTITUE, Advocate for the appellants and of MR.A.SARAVANA KUMAR, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Principal District Special and Sessions Judge, Pudukkottai, in S.C.No.33 of 2015 dated 11.07.2019, till the disposal of the appeal.

2.The case against the petitioners is that the petitioners are A1 and A2 in the case. Crime No.305 of 2014 was registered against ~~the petitioners~~ and two others. During trial, A3 died. The



petitioners were found guilty under Section 307 of IPC. The learned Principal District Special and Sessions Judge, Pudukottai found the petitioners guilty under Section 307 of IPC. The trial Court convicted the petitioners under Section 307 of IPC and sentenced them to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) each and in default to undergo three months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioners have filed a criminal appeal in CrI.A.(MD)No.286 of 2020 and along with the appeal, they filed this petition for suspension of sentence.

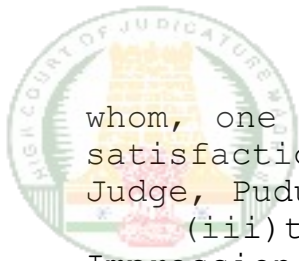
3.On the side of the petitioners, it is stated that original FIR was registered under Section 323 of IPC, 294(b) of IPC r/w. 34 of IPC and Sections 3(1)(r)(s) and 3(2)(va) of SC/ST Act. Thereafter, Section 307 of IPC was included without any material evidence at all. The trial Court failed to consider that P.W.1 did not support the case of prosecution. Ex.P1 was prepared only by the Police. There is contradiction between the evidence of P.W.1 and P.W.8 regarding the injuries. The evidence of P.W.2 contradicts the evidence of P.W.1,3 and 4. P.W.3 and P.W.4 are not eye witnesses. Mahazer witness turned hostile. The injuries are simple in nature and does not warrant punishment under Section 307 of IPC. P.W.11 is not a competent person to issue the wound certificate. There are much more points to be argued in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the accused were arrested on 03.09.2014 and were remanded to judicial custody. Later the case was taken on file in S.C.No.33 of 2015. The prosecution has examined 13 witnesses and marked 16 documents and two material objects. The accident register by P.W.1 and P.W.2 were marked as Exs.P6 and Ex.P7. The communal certificate of the victim was marked as Ex.P8 and the alteration report was marked as Ex.P15. Weapons were seized and marked as M.O.1 and M.O.2. The evidence of P.W.1 and P.W.2 were clearly cogent. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioners and prayed the petition to be dismissed.

5.It is seen that the petitioners are in custody from 11.07.2019 onwards. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners and considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioners herein are entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioners are ordered to be released on bail on the following conditions:

(i)the petitioners are directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of



whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Principal District Special and Sessions Judge, Pudukottai ;

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iv) the petitioners shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal.

sd/-

09/10/2020

/ TRUE COPY /

/ /2020

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

TO

1 THE PRINCIPAL DISTRICT SPECIAL
AND SESSIONS JUDGE, PUDUKKOTTAI.

2 THE DEPUTY SUPERINTENDENT OF POLICE,
ALANGUDI, PUDUKKOTTAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

+1. C.C. to M/S.B.S.MELTITUE Advocate SR.No.6926

ORDER

IN

CRL MP(MD) No.2449 of 2020

IN

CRL A(MD) No.286 of 2020

Date : 09/10/2020

MRN

JM/VR/SAR III/13.10.2020/3P/6C