



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

Monday, the Twenty Seventh day of July Two Thousand Twenty

PRESENT

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

**Crl.M.P. (MD) Nos.2594, 2866 & & 3380 of 2020
in
Crl.A. (MD) Nos.139, 148 & 211 of 2020 respectively**

VEERABATHRAN

... APPELLANT/ACCUSED NO.13
Crl.M.P.(MD) No.2594 of 2020 in
Crl.A.(MD) No.139 of 2020

K.SELVARAJ

... PETITIONER/APPELLANT
Crl.M.P.(MD) No.2866 of 2020 in
Crl.A.(MD) No.148 of 2020

GANESAN

... PETITIONER/APPELLANT
Crl.M.P.(MD) No.3380 of 2020 in
Crl.A.(MD) No.211 of 2020

Vs

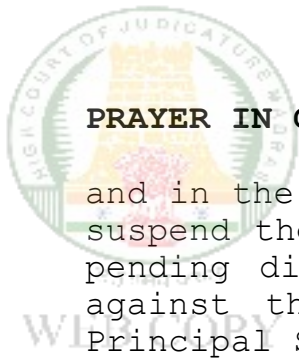
THE STATE OF TAMIL NADU
REPRESENTED BY ITS
THE INSPECTOR OF POLICE,
THIRUPACHETHI POLICE STATION, SIVAGANGAI DISTRICT.
(CRIME NO.124/2010)

... RESPONDENT/COMPLAINANT
Crl.M.P.(MD) Nos.2594 & 2866 of 2020
in Crl.A.(MD) Nos.139 & 148 of 2020

... RESPONDENT/RESPONDENT
Crl.M.P.(MD) No.3380 of 2020 in
Crl.A.(MD) No.211 of 2020

PRAYER IN Crl.M.P. (MD) No.2594 of 2020 in Crl.A. (MD) No.139 of 2020:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against the petitioner in S.C.NO.105/2012 dated 27/02/2020 on the file of the Principal Sessions Judge, Sivagangai and enlarge the petitioner on bail pending disposal of the appeal and thus render justice.



PRAYER IN CrI.M.P.(MD) No.2866 of 2020 in CrI.A.(MD) No.148 of 2020:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the conviction and sentence and grant bail to the Appellant pending disposal of the Criminal Appeal before this Hon'ble Court against the Judgment in S.C.No.105 of 2012 on the file of the Principal Sessions Judge, Sivagangai dated 27.02.2020.

Prayer in CRL MP(MD) . 3380/ 2020 in CrI.A.(MD) No.211 of 2020 :

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the conviction and sentence and grant bail to the Appellant pending disposal of the Criminal Appeal before this Hon ble Court against the judgment in S.C.No.105/2012 on the file of the Principal Sessions Judge, Sivagangai dated 27.02.2020.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.M.SUBASH BABU, Advocate for the petitioner in CrI.M.P.(MD) No.2594 of 2020 in CrI.A.(MD) No.139 of 2020 and of MR.R.VENKATESAN, Advocate for the petitioner in CrI.M.P.(MD) Nos.2866 & 3380 of 2020 in CrI.A.(MD) Nos.148 and 211 of 2020 and of Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent in all the petitions, the court made the following order:-

C O M M O N O R D E R

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

The petitioners herein have been arrayed as accused Nos.13, 16 and 15 respectively in the Sessions Case No.105 of 2012, on the file of the Principal Sessions Court, Sivagangai.

2. There were totally 18 accused as per the charge sheet. It is stated that during the pendency of trial, two accused passed away and the other 16 accused were tried and convicted for the offence committed by them. The conviction and sentence imposed on the petitioners herein are as follows:



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Accused	Section of Law	Sentence of imprisonment
A13	148 I.P.C.	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for three (3) months.
	326 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/- , in default to undergo rigorous imprisonment for three (3) months, for each count.
	324 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/- , in default to undergo rigorous imprisonment for three (3) months, for each count.
A16	148 I.P.C.	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for three (3) months.
	326 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/- , in default to undergo rigorous imprisonment for three (3) months, for each count.
	324 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/- , in default to undergo rigorous imprisonment for three (3) months, for each count.

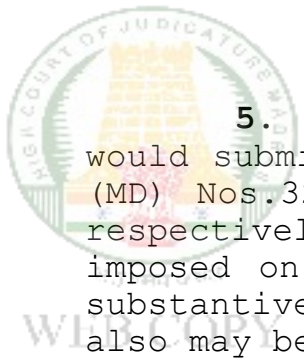


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A15	148 I.P.C.	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for three (3) months.
	326 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/- , in default to undergo rigorous imprisonment for three (3) months, for each count.
	324 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/- , in default to undergo rigorous imprisonment for three (3) months, for each count.

3. Challenging the conviction and sentence imposed by the learned Sessions Judge, the petitioners herein, namely, A13, 16 and A15 have filed the above criminal appeals and during the pendency of the criminal appeals, they have filed the criminal miscellaneous petitions for suspension of sentence.

4. The case of the prosecution is that it is an usual practice of the people from Mudukulathur and Kadaladi to bring their goats and make them to stay in the agricultural fields of Kachanatham Village in Sivagangai District. In regard to the stay of goats, there was a dispute between the deceased and one Muniyandi (A4). On 30.08.2020, at 10.00 a.m. Chandrakumar (P.W.1) went to A4's house to enquire about the issue, where wordy quarrel arose between them. On the same day at 02.30 p.m. it is stated that when the witnesses Chandrakumar (P.W.1), his brother Sureshkumar (P.W.2), Pandi (P.W.3) and Mathi @ Mathiyalagan (P.W.4) were discussing the issue, the accused came with aruval and attacked the deceased with deadly weapons. In the course of the occurrence, some of the witnesses have also sustained injuries. As per the prosecution case, Poojaimani (A1) stabbed the deceased Allimuthu on his chest, chin and caused stab injuries. Rajangam (A8) attacked the deceased with knife and caused injuries. The overt act attributed against the petitioner in Crl.M.P.(MD) No.2594 of 2020 (A13) is that he attacked P.W.2 and caused injury in his right hand and the overt act attributed against the petitioners in Crl.M.P.(MD) Nos.2866 of 2020 and 3380 of 2020 is that they attacked P.W.3 and caused injury in his left side head and right side thigh.



5. Mr.M.Subashbabu, learned counsel for the petitioners, would submit that this Court by order, dated 23.07.2020 in Crl.M.P. (MD) Nos.3223 & 3224 of 2020 in Crl.A.(MD) Nos.187 & 188 of 2020 respectively, has suspended the substantive sentence of imprisonment imposed on the co-accused, namely, A11 and A12 and therefore, the substantive sentence of imprisonment imposed on petitioners herein also may be suspended.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would argue that the presence and the involvement of the petitioners (A13, 15 & 16) in this case have been categorically established by the prosecution and it is also supported by the medical witness P.W.13. The learned Additional Public Prosecutor would further submit that the petitioners are the members of unlawful assembly and the Trial Court has rightly convicted them for the offence committed by them.

7. Considering the above facts and circumstances of the case, we are inclined to suspend the substantive sentence of imprisonment imposed on the petitioners. Accordingly, the criminal miscellaneous petitions are allowed and the substantive sentence of imprisonment imposed on them alone is suspended, subject to the following conditions:

i. The petitioners are directed to be enlarged on bail on each of them 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 Judicial Magistrate, Manamadurai.

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 petitioners shall stay at Madurai and appear before the learned Judicial Magistrate, Manamadurai, at 10.30 a.m. on the first working day of every English Calendar month until further orders.

iv. It is made clear that the petitioners shall not enter into the jurisdiction of the respondent Police.

v. On any particular date, if the petitioners are not able to appear, leave is granted to the petitioners to file application under Section 317



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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/-
27/07/2020

/ TRUE COPY /

/ /2020
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 PRINCIPAL SESSIONS JUDGE, SIVAGANGAI.
2. THE JUDICIAL MAGISTRATE, MANAMADURAI.
3. THE CHIEF JUDICIAL MAGISTRATE, SIVAGANGAI DISTRICT.
- 4 THE SUPERINTENDENT, CENTRAL PRISION, MADURAI.
- 5 THE INSPECTOR OF POLICE,
THIRUPACHETHI POLICE STATION, SIVAGANGAI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.SUBASH BABU, Advocate (SR-5822[I] dated 28/07/2020)
+1CC TO MR.R.VENKATESAN, Advocate, SR NO.5817

ORDER

IN

Crl.M.P.(MD) Nos.2594, 2866 & & 3380 of 2020
in

Crl.A.(MD) Nos.139, 148 & 211 of 2020 respectively

Date :27/07/2020

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