



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

Tuesday, the Twenty Fifth day of August Two Thousand Twenty

PRESENT

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

CRL MP(MD) No.3142 of 2020
IN
CRL A(MD) No.181 of 2020

1 SURESH
2 CHINNAMUTHU ... PETITIONERS/APPELLANTS/ACCUSED Nos.1 & 3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
DINDIGUL TOWN SOUTH POLICE STATION,
DINDIGUL DISTRICT.
IN CRIME NO.483/2011 ... RESPONDENT/RESPONDENT/COMPLAINANT

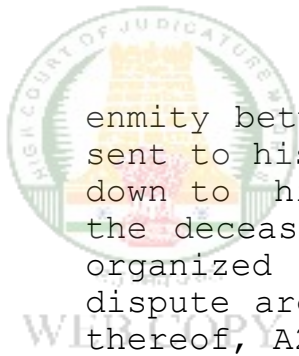
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner / appellant/accused in S.C.No.50/2014 dated 26/02/2020 on the file of the Learned Principal District and Sessions Judge, Dindigul and enlarge them on bail till the disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.N.ANANTHA PADMANABAN for M/S.APN LAW ASSOCIATES, Advocate for the petitioners and of MR.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

A1 and A3, who faced the charges for the offence under Sections 302 and 341 IPC and 302 r/w 34 IPC and convicted by the learned Principal District and Sessions Judge, Dindigul in S.C.No.50 of 2014, have preferred this appeal. During the pendency of the appeal, they seek for suspension of sentence.

2.The case of the prosecution in brief is that the accused Nos.1 and 2 are the brothers and third accused is their relative. P.W.1 Murugan is the brother of the deceased. It is the case of the prosecution that the friend of the deceased Chandru was murdered by the relatives of the accused and due to which, there was previous



enmity between the accused and the deceased. So, the deceased was sent to his sister's house at Periyakulam and on 11.06.2011, he came down to his native place to attend Kaliamman Temple festival. When the deceased, P.W.1, P.W.4 and his friends were watching Orchestra organized at Kaliamman Temple on 12.06.2011 at about 10.30 p.m, a dispute arose between the accused and the deceased and in pursuance thereof, A2 and A3 caught hold of the deceased and A1 inflicted the injuries on his right chest.

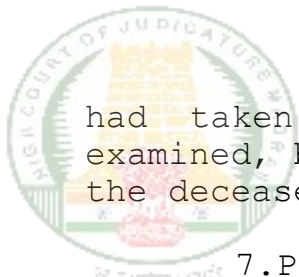
3.The trial Court accepting the evidence adduced by the prosecution, convicted the accused. The conviction and sentence imposed on the petitioners herein is as follows:

Accused	Section of Law	Sentence of imprisonment
A1	302 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for six (6) months.
A3	341 I.P.C	To undergo simple imprisonment for a period of one month.
	302 r/w 34 of IPC	To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for six (6) months.

4.Since A2, Manikandan is a Juvenile, the case was split up. Though this application has been filed by the accused 1 and 3, the learned Senior Counsel appearing for the petitioners seeks permission of this Court to withdraw this application in respect of A1 and argued the case of A3.

5.Heard Mr.Anantha Pandmanaban, learned Senior Counsel appearing for the petitioner and Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the respondent.

6.It is contended by the learned Senior Counsel that though the prosecution projected P.W.1 to P.W.3, P.W.16 and P.W.17 and P.W.19 who are witnesses to the occurrence, but P.W.1, P.W.16, P.W.17 and P.W.19 have turned hostile and the prosecution's hinges on P.W.2 and P.W.3. The learned Senior Counsel has taken this Court to the evidence of P.W.2, P.W.3, P.W.6 and P.W.18 in support of his contention that there are inherent contradiction in the evidence of prosecution with regard to the place and manner of occurrence. It is also contended that the prosecution originally suppressed Ex.P.24 accident register and it was produced at the instance of the accused. Ex.P.24 would show that the deceased was attacked by an unknown person, whereas the police laid charge sheet against the three accused. It is further submitted that though the occurrence



had taken place in public place, no independent witness was examined, but P.W.2 and P.W.3 are also close friends and relative of the deceased party.

7.Per contra, the learned Additional Public Prosecutor appearing for the State would state that the motive and the involvement of the accused in this case have been categorically established by the prosecution through the evidence of P.W.2, P.W.3 and other witnesses. It is the submission of the learned Additional Public Prosecutor that admittedly, the occurrence had taken place in village and after the occurrence, all the witnesses accompanied the deceased to the hospital where, police have recorded their statements at 01.15 p.m on 13.06.2011 and immediately, the case was registered at 02.30 a.m., hence, there is no contradiction as projected by the learned Senior Counsel appearing for the petitioner.

8.We have considered the rival submissions of both the counsels and perused the materials available on records.

9.In the instant case, the occurrence is said to have taken place on 12.06.2011 at 10.30 p.m. The case was registered based on the complaint given by P.W.1, on 13.06.2011 at 02.30 a.m. P.W.2 has deposed that he took the deceased to the hospital at 12.30 a.m and the police have obtained statement from him. According to P.W.2, the mother of the deceased also accompanied him and she was examined by the police and the Doctor, P.W.13 also says that at 11.30 p.m on 12.06.2011, the police have obtained statement from him. The overt act attributed against the third accused is that he caught-hold the deceased along with A2 while the deceased was attacked by A1.

11.Considering the above aspects, we are inclined to suspend the sentence in respect of A3 alone during pendency of the appeal. Accordingly, the criminal miscellaneous petition is allowed in part in respect of A3 alone and the substantive sentence of imprisonment imposed on the second petitioner/A3 alone is suspended, subject to the following conditions:

i. The second 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 Judicial Magistrate No.III, Dindigul.

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

iii. The second petitioner shall appear

<https://hcservices.ecourts.gov.in/hcservices> before the learned Judicial Magistrate No.III,



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Dindigul, 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 second 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 Trial Court on any other day, as determined by the Trial Court, in lieu of the day on which they would absent.

12. In view of the submission made by the learned senior counsel, this Criminal Miscellaneous Petition is dismissed as withdrawn insofar as the first petitioner/A1.

sd/-

25/08/2020

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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 PRINCIPAL DISTRICT AND SESSIONS JUDGE, DINDIGUL.
2. THE JUDICIAL MAGISTRATE NO. III, DINDIGUL.
3. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.
4. THE INSPECTOR OF POLICE,
DINDIGUL TOWN SOUTH POLICE STATION, DINDIGUL DISTRICT.
5. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s. APN LAW ASSOCIATES, Advocate (SR-6128[I] dated 27/08/2020)

ORDER IN
CRL MP(MD) No.3142 of 2020
IN
CRL A(MD) No.181 of 2020
Date : 25/08/2020

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AE/VR/SAR-III (28.08.2020) 4P 8C

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