



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

Thursday, the Twenty Third 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.3223 & 3224 of 2020
in Crl.A.(MD) Nos.187 & 188 of 2020

RAMAYEE

... APPELLANT/ ACCUSED NO.12
IN Crl.M.P.(MD) No.3223 of 2020
in Crl.A.(MD) No.187 of 2020

RATHI

... PETITIONER/ APPELLANT/ ACCUSED NO.11
IN Crl.M.P.(MD) No.3224 of 2020
in Crl.A.(MD) No.188 of 2020

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.124/2010

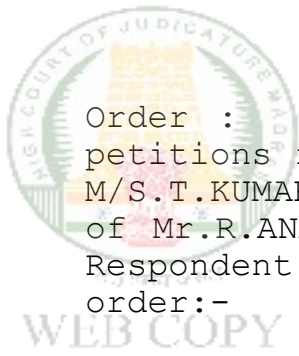
... COMPLAINANT/ RESPONDENT
IN BOTH THE PETITIONS

PRAYER IN Crl.M.P. (MD) No.3223 of 2020 in Crl.A. (MD) No.187 of 2020:

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of Imprisonment imposed by the Principal District Sessions Court, Sivagangai District at Sivagangai in S.C.NO.105 of 2012 by the Judgment dated on 27/02/2020 and to enlarge the Appellant /petitioner on bail.

Prayer IN Crl.M.P. (MD) No.3224 of 2020 in Crl.A. (MD) No.188 of 2020:

To suspend the sentence of Imprisonment imposed by the Principal District Sessions Court, Sivagangai District at Sivagangai in S.C.No.105 of 2012 by the judgment dated on 27/02/2020 and to enlarge the Appellant/ petitioner on bail.



Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.T.KUMAR, Advocate for the petitioner in both the petitions and of Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent in both the petitions, the court made the following order:-

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

The petitioners herein have been arrayed as accused Nos.12 and 11 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:

Accused	Section of Law	Sentence of imprisonment
A11	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.



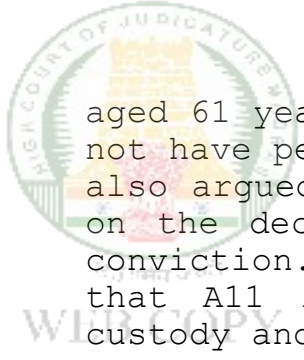
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A12	147 I.P.C.	To undergo rigorous imprisonment for two (2) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in 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, A12 and A11 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 petitioners herein / A12 and A11 is that while A12 caught hold of the Mathi @ Mathiyalagan (P.W.4), A11 stabbed him with knife and caused injury on his left thumb.

5. Mr.T.Kumar, learned counsel for the petitioners, would submit that the entire prosecution story is unbelievable. It is
<https://hccourtrecords.gov.in/hccv> A11 is 36 years old lady and A12 is a senior citizen



aged 61 years and P.W.4, who was already having criminal cases would not have permitted A12 to hold him at the time of occurrence. It is also argued that admittedly, A11 and A12 have not caused any injury on the deceased and they have been in custody since the date of conviction. The learned counsel for the petitioners further stated that A11 is having three children and their father is also in custody and there are arguable points available to the petitioners.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would argue that the presence and the involvement of the petitioners (A12 & A11) 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.

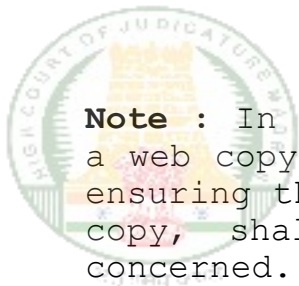
iv. It is made clear that the petitioners shall not enter into the jurisdiction of the respondent Police.

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 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/-
23/07/2020

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/ /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.

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TO

1. THE PRINCIPAL DISTRICT SESSIONS JUDGE,
SIVAGANGAI DISTRICT AT SIVAGANGAI.
 2. THE JUDICIAL MAGISTRATE,
MANAMADURAI.
 3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
 4. THE INSPECTOR OF POLICE
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT.
 5. THE SUPERINTENDENT, CENTRAL PRISON FOR WOMEN,
MADURAI.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.T.KUMAR, Advocate (SR-5808[I] dated 24/07/2020)

ORDER IN
Crl.M.P.(MD) Nos.3223 & 3224 of 2020
in
Crl.A.(MD) Nos.187 & 188 of 2020
Date :23/07/2020

MS/PN/SAR-2/27.07.2020/5P.8C