



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Thirty First day of July Two Thousand and Twenty

PRESENT

The Hon'ble Mr Justice K.KALYANASUNDARAM
and

The Hon'ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3255 of 2020

IN

CRL A(MD) No.194 of 2020

B.PRABHU

... PETITIONER/APPELLANT/
9th ACCUSED

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
THIRUPPACHETI POLICE STATION,
SIVAGANGAI DISTRICT.
(CRIME NO.124 OF 2010)

... 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 and conviction imposed by the Principal Sessions Judge, Sivagangai, Sivagangai dated 27.02.2020 made in Special Session Case No.105 of 2012 pending disposal of the Criminal appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.VEERAKATHIRAVAN, Senior Counsel for M/S. VEERA ASSOCIATES, Advocate for the petitioner 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.]

The petitioner herein has been arrayed as accused No.9 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 petitioner herein are as follows:

A-9	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 petitioner herein, namely, A9 has filed the above criminal appeal and during the pendency of the criminal appeal, he has filed the criminal miscellaneous petition 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 herein / A9 is that he caught hold of P.W.1-Chandrakumar while the 10th accused Muthupandi had attached P.W.1 with aruval causing injury to the left forearm of P.W.1.

5. Mr.Veerakathiravan, learned Senior Counsel appearing for the petitioner, would submit that the entire prosecution story is unbelievable. It is also argued that admittedly, A-9 has not caused any injury on the deceased and he has been in custody since the date of conviction. The learned counsel for the petitioner further stated that there are arguable points available to the petitioner.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would submit that the petitioner is 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 petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

i. The petitioner is 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 petitioner 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 petitioner shall not enter into the jurisdiction of the respondent Police.

v. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner 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/-
31/07/2020

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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.

TO

1. THE PRINCIPAL SESSIONS JUDGE, SIVAGANGAI.
2. THE JUDICIAL MAGISTRATE, MANAMADURAI.
3. DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.
4. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
5. THE INSPECTOR OF POLICE,
THIRUPPACHETI POLICE STATION,
SIVAGANGAI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1CC to M/s.VEERA ASSOCIATES, Advocate (SR-5885[I] dated 04/08/2020)

ORDER IN
CRL MP(MD) No.3255 of 2020 IN
CRL A(MD) No.194 of 2020
Date :31/07/2020

RJ2

<https://hcs.e-courts.gov.in/rcservices/> 05.08.2020/ 4P/8C