



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

Wednesday, the Nineteenth day of August Two Thousand Twenty

PRESENT

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

CRL MP(MD) No.3564 of 2020

IN

CRL A(MD) No.224 of 2020

1 M.PANDIVEL
2 M.VEERABATHRAN
3 C.PAZHANIYANDI
4 R.MUTHUPANDI

... PETITIONER/APPELLANTS NO.2,3,7 & 10

Vs

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

... RESPONDENT/ COMPLAINANT

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 on the petitioners by the Principal Sessions Judge, Sivagangai in S.C.No.105/2012 by his judgment dated 27.02.2020 and enlarges the petitioner on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.GOPALAKRISHNA LAKSHMANARAJU, Senior Counsel for Mr.S.G.L.RISHWANTH, 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.**]

The petitioners herein have been arrayed as accused Nos.2, 3, 7 and 10 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
<https://hcservices.ecourts.gov.in/hcservices/>



and the other 16 accused were tried and convicted by the Trial Court. The conviction and sentence imposed on the petitioners herein are as follows:

Accused	Section of Law	Sentence of imprisonment
A2	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.
A3	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.

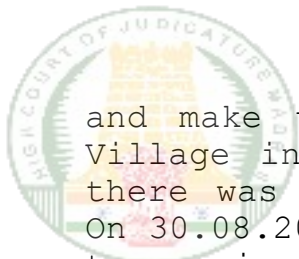


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A7	148 I.P.C.	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, 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.
A10	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, A2, A3, A7 and A10 have filed the above criminal appeal and during the pendency of the criminal appeal, they have filed the present 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 30.08.2010, 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. The overt act attributed against the petitioners 1 and 2 herein / A2 and A3 is that while they caught hold of the deceased, A8 caused injury on his right thumb and the overt act attributed against the petitioners 3 and 4 herein / A7 and A10 is that they caused injury on P.W.1, while A9 caught hold of him.

5. Mr.Gopalakrishna Lakshmanaraju, learned Senior Counsel for Mr.S.G.L.Rishwanth, learned counsel on record for the petitioners, would submit that as per the prosecution case, the accused 1 and 4 caused injury on the deceased, which led to his death and it is the further case of the prosecution that after A1 attacked the deceased, when he attempted to run away from the scene of occurrence, A2 and A3 caught hold of the deceased and A8 caused injury on his right thumb. It is also contended that A7 and A10 are said to have caused injury on P.W.1, while A9 caught hold of him, but there is no corresponding injury. According to the learned Senior Counsel, P.W.1 sustained only simple injury and this Court has also suspended the sentence imposed on the similarly placed co-accused, namely, A11, A12, A13, A15 and A16.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would argue that A2 and A3 have only felicitated the other accused to attack the deceased and hence, they are not entitled for suspension of sentence and the injury sustained by P.W.1 is grivious in nature. 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. A perusal of the records would reveal that the prosecution has come before the Court alleging that on 30.08.2010, at 02.30 p.m., all the accused came with deadly weapons and one Sekar attacked the deceased on his stomach and thereafter, A1 caused injury on his chest and shoulder. When the deceased tried to run away from the scene of occurrence, A2 and A3 caught hold of the deceased and A8 attacked the deceased and caused injury on his right thumb. Further, while A9 caught hold of P.W.1, A7 and A10 caused injury on him. It is evident from the records that the petitioners herein, namely, A2, A3, A7 and A10 did not cause any injury on the



deceased. As rightly pointed out by the learned Senior Counsel, this Court has also suspended the sentence imposed on the co-accused, namely, A11, A12, A13, A15 and A16, who are similarly placed that of the petitioners herein.

8. Considering the above facts and circumstances of the case, we are inclined to suspend the substantive sentence of imprisonment imposed on the petitioners herein also. Accordingly, the criminal miscellaneous petition is 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/-

19/08/2020

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

ORDER
IN
CRL MP (MD) No.3564 of 2020
IN
CRL A (MD) No.224 of 2020
Date :19/08/2020

MS/PN/SAR-2/25.08.2020/6P.7C