



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

Monday, the Seventeenth 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.3791 of 2020
IN
CRL A(MD) No.240 of 2020

MUNIYANDI

... APPELLANT/ACCUSED NO.6

Vs

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

... 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 of Imprisonment imposed by the learned Principal Sessions Judge, Sivagangai in S.C.No.105 of 2012 by the Judgment dated 27.2.2020 and enlarge the Petitioners/Appellants on bail, pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of D.RAMESH KUMAR, 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.6 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 is as follows:

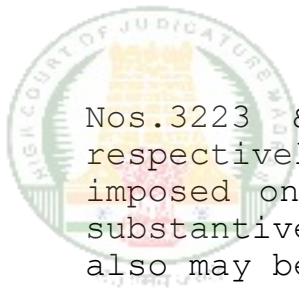


Accused	Section of Law	Sentence of imprisonment
A6	147 I.P.C.	To undergo rigorous imprisonment for two (2) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default 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, A6 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 30.08.2010, 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. 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.

5. Mr.D.Rameshkumar, learned counsel for the petitioner, would submit that the entire prosecution story is unbelievable. He would further that this Court by order, dated 23.07.2020 in Crl.M.P. (MD)



Nos.3223 & 3224 of 2020 in CrI.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 petitioner herein also may be suspended.

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6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would argue that the presence and the involvement of the petitioner/A6 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 petitioner is the member 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 petitioner. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on him alone is suspended, subject to the following conditions:-

i. The petitioner is directed to be enlarged on bail on his 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.

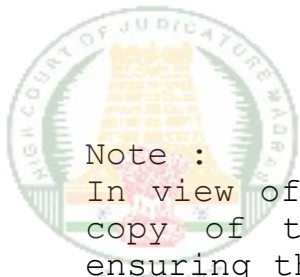
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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 THRO'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.3791 of 2020
IN
CRL A(MD) No.240 of 2020
Date :17/08/2020

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AE/PN/SAR-II (20.08.2020) 4P 7C