



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

Thursday, the Twenty Seventh day of August Two Thousand Twenty

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PRESENT

The Hon'ble Mr Justice K.KALYANASUNDARAM
and
The Hon'ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3875 of 2020 IN
CRL A(MD) No.156 of 2019

SILAMBARASAN

... PETITIONER/APPELLANT/
ACCUSED No.1

Vs

THE STATE OF TAMILNADU REPRESENTED BY
THE INSPECTOR OF POLICE,
C-5 KARIMEDU (L AND O) POLICE STATION, MADURAI.
(CR.NO.99/2013)

... RESPONDENT/RESPONDENT

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 on the petitioner/Appellant by the Learned V Additional District and Sessions Judge, Madurai in S.C.NO.103 of 2014 dated 13/03/2019 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.SUNDARAVEL, 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.]

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant seeking to suspend the substantive sentence of imprisonment imposed on him by the learned Vth Additional District and Sessions Judge, Madurai, by Judgment dated 13.03.2019 in S.C.No.103 of 2014.

2.Totally, there were seven accused, as per the charge-sheet filed by the respondent. However, during the pendency of the trial, second accused died and charge against him was abated. The other accused have faced trial for the offence under Sections 120(B), 147, 148, 341, 342 and 302 of IPC. All the accused have been found guilty by the learned V Additional District and Sessions Judge (FTC), Madurai in S.C.No. 103 of 2014 vide judgment,



dated 13.3.2019. Aggrieved over the conviction and sentence, the present Criminal Appeal has been filed by the first accused/Petitioner and he seeks suspension of sentence, pending appeal.

3. The case of the prosecution is that the deceased Prabhu belongs to Koodal Nagar in Madurai and he used to play cricket in Vaigai River Bank along with his friends. It is alleged that the Petitioner/A1 had quarrelled with the deceased in abbreviated condition and also made comments against the deceased. While-so, on 13.2.2013, at about 5.00 p.m., when the deceased Prabhu and his friends were playing cricket, the deceased attacked the first accused. Thereupon A1 hatched with the other accused on 3.2.2013 at 9.30 p.m., and in pursuance thereof, on 4.2.2013 when the deceased was holding talks with the de-facto complainant, all the accused A1 to A7 came there and attacked the deceased indiscriminately and while taking treatment at Government Rajaji Hospital at Madurai, on the same day i.e., on 4.2.2013 at 8.05 p.m., he died.

4. The learned counsel for the Petitioner would submit that all the convicted accused have preferred appeals and they are pending before this Court. Except the Petitioner/A1, other accused who are similarly placed as that of the Petitioner, have been granted bail by suspending their sentence.

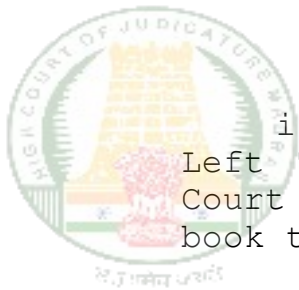
5. We have gone through the orders passed in respect of other accused as stated supra.

6. The case of the prosecution is that on 4.2.2013, all the accused stabbed and attacked the deceased indiscriminately with deadly weapons and the deceased died on the same day at Government Rajaji Hospital, Madurai, while taking treatment. Therefore, We are convinced that the Petitioner is also similarly placed as that of the other accused in this case.

7. The learned Additional Public Prosecutor would state that in respect of other accused, condition was imposed directing them to stay at Villupuram, but the said condition was subsequently modified and now they are reporting before the Committal Court. So we are inclined to extend the same benefit to the Petitioner also.

8. Considering the above aspects, we are of the opinion that the accused is entitled for suspension of sentence during pendency of the appeal. 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 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.V, Madurai.



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 petitioner shall appear before the learned Judicial Magistrate No.V, Madurai at 10.30 a.m. on the first working day of first and third week of every English Calendar month, until further orders.

iv. On any particular date, if the petitioners are not able to appear, leave is granted to the petitioners 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.

sd/-

27/08/2020

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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 V ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC), MADURAI.
2. THE JUDICIAL MAGISTRATE No.V, MADURAI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
5. THE INSPECTOR OF POLICE,
C-5 KARIMEDU (L AND O) POLICE STATION,
MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+ 1 CC TO Mr.KARTHIKEYA VENKITACHALAPATHY, ADVOCATE IN SR No.6146

ORDER IN

CRL MP(MD) No.3875 of 2020
IN

CRL A(MD) No.156 of 2019

Date :27/08/2020