



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

Thursday, the Third day of September 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.3928 of 2020
IN
CRL A (MD) No.527 of 2019

DURAIRAJ

... PETITIONER/1st APPELLANT/
1st ACCUSED

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
SIRUGANUR POLICE STATION,
TRICHY DISTRICT.
CR.No.190 OF 2015

... 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 made in the Judgment in S.C.No.44 of 2019 on the file of the I Additional District and Sessions Court (PCR) Tiruchirappalli, Dated 09.10.2019 pending disposal of the instant 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.N.ANANDAKUMAR, 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 along with one Madhubalan and Kanagaraj were charged by the learned I Additional District and Sessions Judge (PCR), Tiruchirappalli, in S.C.No.44 of 2019, for the offence under Sections 302 r/w 34 I.P.C. The Trial Court, vide Judgment dated 09.10.2019, found them guilty for the said offences. The conviction and sentence imposed on the petitioner herein (A1) is as follows:

Section of Law	Sentence of imprisonment
302 r/w 34 I.P.C. (2 counts)	To undergo life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for two (2) years for each count.

2. Aggrieved over the conviction and sentence, all the accused have preferred the present criminal appeal. Pending appeal, the petitioner (A1) has filed this criminal miscellaneous petition seeking to suspend substantive sentence of imprisonment imposed on him by the Trial Court in the above sessions case.

3. The case of the prosecution is that about thirty years ago, the deceased Thirupathi and Arumugam had murdered two persons, namely, Natarajan and Nagarajan over a land dispute. While so, on 27.05.2015 at 11.30 a.m., when the deceased were engaged in putting up a shed, the petitioner (A1) armed with spade, A2 and A3 armed with iron rods attacked the deceased indiscriminately and caused his death.

4. It is the submission of Mr.N.Anandakumar, learned counsel for the petitioner, that on the date of occurrence, all the three accused were erecting a shed in their land and they were attacked by the deceased. It is further submitted that A2 and A3 sustained grievous injuries and were taken to the Government General Hospital, Trichy, where they took treatment as inpatient. But, the prosecution had deliberately suppressed the genesis of the case and filed a false case against the accused.

5. The learned counsel for the petitioner further submitted that A2 and A3 are similarly placed that of the petitioner herein (A1) and the sentence imposed on them has been suspended by this Court, vide order dated 19.02.2020 in CrI.M.P.(MD) No.10003 of 2019 and therefore, prays for suspension of sentence.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, vehemently opposed the petition contending that the prosecution has established the involvement of the accused in this case through the eye-witnesses P.Ws.1 to 4. It is further submitted that the injuries sustained by the accused are superfluous and simple and hence, much importance can be attached to Exs.D1 and D2.

7. Heard the learned counsel on either side and perused the materials available on record.

8. In this case, this Court, while considering the application filed by A2 and A3, has *prima facie* found that the genesis of the crime has been suppressed by the prosecution, in the sense that the injuries sustained by the accused have not been explained by the prosecution. On that ground, the sentence imposed on A2 and A3 were suspended. We are of the considered opinion that the petitioner is



also entitled for the same benefit.

9. In such view of the matter, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner (A1) alone is suspended, subject to the following conditions:

i. The petitioner (A1) 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 learned Judicial Magistrate, Lalgudi.

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 appear before the learned Judicial Magistrate, Lalgudi, at 10.30 a.m. on the first working day of every English Calendar month until further orders.

iv. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an 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/-
03/09/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

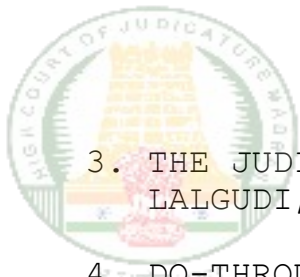
Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned

TO

1. THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),
TRICHIRAPPALLI.

<https://hcservices.ecourts.gov.in/hcservices/>

2. DO-THROUGH : THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
TRICHY DISTRICT.



3. THE JUDICIAL MAGISTRATE,
LALGUDI, TRICHY DISTRICT.

4. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

5. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

6. THE INSPECTOR OF POLICE,
SIRUGANUR POLICE STATION,
TRICHY DISTRICT.

7. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.3928 of 2020
IN
CRL A (MD) No.527 of 2019
Date : 03/09/2020

KRK

TE/VR/SAR-III : 09/09/2020 : 4P/8C