



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

Friday, the Twenty Fifth day of September Two Thousand Twenty

PRESENT

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

CRL MP(MD) No.3999 of 2020
IN
CRL A(MD) No.254 of 2020

1.R.SENTHILKUMAR
2.N.RAJANGAM

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
THIRUPACHETHI POLICE STATION,
SIVAGANGAI, SIVAGANGAI DISTRICT.
CRIME NO.235 OF 2011

... RESPONDENT/RESPONDENT

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 petitioner in S.C.No.85 of 2014 dated 31.01.2020 passed by the learned Principal District and Sessions Judge, Sivagangai and enlarge the petitioner on bail, pending disposal of the criminal appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.P.ANDIRAJ, Advocate for the petitioners and of Mr.R.ANANDARAJ, 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 convicted accused in S.C.No.85 of 2014 on the file of the Principal District and Sessions Court, Sivagangai, preferred the appeal. Pending appeal, this application has been filed seeking suspension of sentence.

2.Though this application has been filed for A1 and A2, the learned counsel for the petitioner Mr.P.Andiraj, seeks permission to withdraw this application in respect of the first petitioner / first accused and hence, this application against the first petitioner / first accused is dismissed as withdrawn.



3.The case of the prosecution is that the deceased is the brother of the second accused Rajangam, while the first accused is his son. The deceased owns 35 cents of land at Thiruppachethi near Vivekananda School and when the second accused was demanding his share, the deceased was dodging and hence quarrel arose between them. In pursuance thereof, on 20.09.2011, when the deceased and his son Ganesan-P.W.1 were coming from their sugarcane field, the accused waylaid him and when the second accused held the hands of the deceased and at his instigation, the first accused attacked the deceased with bill-hook and thereby caused his death.

4.The learned counsel appearing for the petitioner would submit that the prosecution projected P.Ws.1 and 2 as eye witnesses of the occurrence, but they are closely related to the deceased. It is the submission of the learned counsel that P.W.1 is the son and P.W.2 is the son-in-law of the deceased and the trial Court passed the order of conviction only relying on the evidence of P.Ws.1 and 2. The learned counsel further submitted that even as per the case of the prosecution, the fatal injury was attributed to the first accused and hence, considering the overt act imputed against the second accused and that he is a senior citizen of 75 years old, his application can be allowed.

5.Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor vehemently opposed the petition contending that the prosecution has categorically established the motive for the occurrence and the overt acts attributed to the accused and there is no reason to disbelieve the testimony of the witnesses and prayed to dismiss the petition.

6.In the instant case, the prosecution came up with a story that due to property dispute, the deceased was done to death by the accused. This Court taking note of the submission of the learned counsel for the petitioner and the overt act of the second petitioner / second accused and his age, is inclined to suspend the sentence. Accordingly, the criminal miscellaneous petition is allowed in respect of the second petitioner / second accused and the substantive sentence of imprisonment alone imposed on the second petitioner / second accused is suspended, subject to the following conditions:

i. The second petitioner / second accused 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 Additional District Munsif cum Judicial Magistrate, Manamadurai.

ii. The sureties shall affix their photographs and Left



Court may obtain a copy of their Aadhar Card or Bank Passbook to ensure their identity.

iii. The second petitioner / second accused shall appear before the learned Additional District Munsif cum Judicial Magistrate, Manamadurai, 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 second petitioner / second accused is not able to appear, leave is granted to the second petitioner / second accused 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/-
25/09/2020

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

ORDER IN
CRL MP(MD) No.3999 of 2020
IN
CRL A(MD) No.254 of 2020
Date : 25/09/2020

RJ2

<https://hccs.cer.nic.in/Services/Download/DownloadOrder.aspx?OrderNo=2020/3P/7C>