



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Thirteenth day of October Two Thousand and 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.4048 of 2020

IN

CRL A(MD) No.265 of 2020

1 POOJAIMANI

2 RAJANGAM

... PETITIONERS/APPELLANTS/
ACCUSED No.1&8

Vs

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

... COMPLAINANT/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 by the Principal District Sessions Court, Sivagangai District Sivagangai in S.C.No.105 of 2012 by the Judgment dated 27.02.2020 and to enlarge the Appellants/Petitioners on Bail, pending disposal of the above CRL A(MD) No.265 of 2020.

Prayer in CRL A(MD) No.265 of 2020.:

To call for the records and set aside the order of conviction and sentence passed in SC No.105 of 2012 dated 27.02.2020 on the file of the Principal Sessions Judge, Sivagangai District at Sivagangai and allow this appeal and Acquit the appellants/ Accused from the charges levelled against them.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.KUMAR, 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 were arrayed as accused Nos.1 and 8 in
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the Sessions Case No.105 of 2012, on the file of the Principal Sessions Court, Sivagangai. 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 by the Trial Court. The conviction and sentence imposed on the petitioners (A1 and A8) are as follows:

Accused	Section of Law	Sentence of imprisonment
A1	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.
A8	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.



2. Challenging the conviction and sentence imposed by the learned Sessions Judge, the petitioners herein, namely, A1 and A8 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.

3. 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 A1 is that he stabbed the deceased Allimuthu on his chin, chest and caused stab injuries and A8 attacked the deceased Allimuthu with a knife and caused injury on his right little finger.

4. Mr.T.Kumar, learned counsel for the petitioners, would submit that this Court, by order, dated 23.07.2020 in CrI.M.P.(MD) Nos.3223 & 3224 of 2020 in CrI.A.(MD) Nos.187 & 188 of 2020; by order dated 27.07.2020 in CrI.M.P.(MD) Nos.2594, 2866 & 3380 of 2020 in CrI.A.(MD) Nos.139, 148 & 211 of 2020 and by order dated 19.08.2020 in CrI.M.P.(MD) No.3564 of 2020 in CrI.A.(MD) No.224 of 2020, has suspended the substantive sentence of imprisonment imposed on the co-accused, namely, A2, A3, A7, A10, A11, A12, A13, A15 and A16 and therefore, the substantive sentence of imprisonment imposed on petitioners herein (A1 and A8) also may be suspended.

5. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would argue that the overt acts attributed against the petitioners are grave in nature as A1 stabbed the deceased Allimuthu on his chin, chest and caused stab injuries and A8 attacked the deceased Allimuthu with a knife and caused injury on his right little finger and hence, they are not entitled for suspension of sentence. 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. He would add that the petitioners are not similarly placed that of the accused, who were granted bail by suspending their sentence.



6. Perusal of the records shows that the prosecution story is that the first accused caused injuries on the vital parts of the deceased, while the second accused inflicted injury on his little finger. Considering the above facts and circumstances of the case and also the fact that this Court has suspended the substantive sentence of imprisonment imposed on the co-accused, namely, A2, A3, A7, A10, A11, A12, A13, A15 and A16, we are inclined to suspend the substantive sentence of imprisonment imposed only on the second petitioner (A8) alone. When this Court expressed opinion that A1 is not entitled for bail, the learned counsel for the petitioner sought permission of this Court to withdraw this petition insofar as the first petitioner (A1) is concerned. Granting such permission, the criminal miscellaneous petition is dismissed as withdrawn in respect of the first petitioner (A1) is concerned.

7. Accordingly, the criminal miscellaneous petition is partly allowed and the substantive sentence of imprisonment imposed on the second petitioner (A8) alone is suspended, subject to the following conditions:

- i. The second petitioner (A8) 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, 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 second petitioner (A8) 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 second petitioner (A8) shall not enter into the jurisdiction of the respondent Police.
- v. On any particular date, if the second petitioner (A8) is not able to appear, leave is granted to him 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 he would absent.

sd/-
13/10/2020

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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, MADURAI DISTRICT.
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.4048 of 2020 IN
CRL A(MD) No.265 of 2020
Date :13/10/2020

KRK
SRS/ AKM/SAR-IV/ 19.10.2020/ 5P/7C

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