



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

Tuesday, the Twenty Second day of December Two Thousand and Twenty

PRESENT

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

CRL MP(MD) No.4111 of 2020
IN
CRL A(MD) No.268 of 2020

M.PRASANTH

... PETITIONER/APPELLANT/
SINGLE ACCUSED

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
GUDALUR SOUTH POLICE STATION,
THENI DISTRICT.
CRIME NO.30/2014

... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed 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/appellant /accused in S.C.No.16/2017 dated 08/06/2020 on the file of the Learned Additional District and Sessions Judge(Fast Track Court), Theni and enlarge petitioner on bail till the disposal of the appeal.

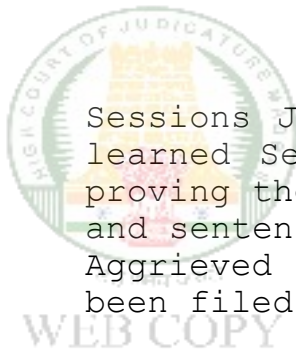
PRAYER IN CRL A(MD) No.268 of 2020:

Pleaded to call for the records relating to the judgment in S.C.No.16/2017 dated 08.06.2020 on the file of the learned Additional District and Sessions Judge(Fast Track Court), Theni and set aside the same and acquit him from the charge leveled against him.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.VENKATESWARAN, Advocate for the petitioner and of Mr.M.CHANDRASEKARAN, 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 was charged for the offence punishable under Section 302 IPC. He faced trial before the Additional District and
<https://hcservices.ecourts.gov.in/hcservices/>



Sessions Judge, Fast Track Court, Theni in S.C.No.16 of 2017. The learned Sessions Judge held that the prosecution has succeeded in proving the charge against the petitioner, thereby, he was convicted and sentenced to undergo life imprisonment with fine of Rs.10,000/-. Aggrieved over the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

2.The case of the prosecution is that the uncle of the accused, namely, Alagumalai illegally trapped water from Mullai Periyar River by installing electric motor. The said act was informed by the deceased to the Electricity Department and hence, the service connection was disconnected. Aggrieved over the act of the deceased, on 07.03.2014 at 07.15 p.m, when the accused along with prosecution witnesses was standing before the Tea Stall, the deceased Raja came there. On seeing the deceased, the accused Prasanth pick up quarrel and inflicted injuries on his neck and back side of the deceased. In the result, he died.

3.Mr.R.Venkateswaran, learned counsel for the petitioner would submit that the prosecution has deliberately suppressed the facts of the occurrence. According to the learned counsel, the remand requisition and the confession of the accused would reveal that one Kuravan took the cell phone of the accused about 15 days prior to the incident and he sold to third parties and on 07.03.2014, the accused was insisting the person to return the cell phone, the deceased Raja supported Kuravan and thereafter, a wordy quarrel arose between the accused and the deceased. In the course of the transaction, the deceased pushed the accused, he fell on wire fence and thereby, he sustained injury. Thereafter, the accused took knife from the Broiler shop and attacked the deceased. But the prosecution has suppressed the fact and stated as if the accused was holding knife in his hip and attacked the deceased. The learned counsel drew the attention of this Court to the 164 Statement recorded from P.W.1, which is enclosed at page No.6 of the typed set. It is also stated that pending investigation and during trial, the accused was on bail and he is ready to abide by any of the conditions imposed by this Court.

4.Per contra, Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the respondent would vehemently oppose the bail petition contending that the prosecution has relied on the evidence of P.W.s1 to 4 who have witnessed the incident. It is also submitted that though P.Ws.1 and 2 are relatives of the deceased, P.Ws.3 and 4 are the independent witnesses and there is no reason to disbelieve their testimony. According to the learned Additional Public Prosecutor, cause for commission of offence and the act played by the accused has been categorically proved beyond a reasonable doubt and hence, the petitioner is not entitled for suspension of sentence.



5.It is the case of single accused and according to the prosecution, on 07.03.2014 at 07.15 p.m, the accused said to have attacked the deceased with knife (M.O.1). As rightly pointed out by the learned counsel for the petitioner, in the requisition memo and confession statement, it is stated that when the accused was insisting one Kuravan to return the cell phone, quarrel ensued between the accused and the deceased and in pursuance thereof, the accused took the knife from the Broiler shop and inflicted fatal injury on the deceased. In the evidence, they have given a different story. Perusal of the 164 statement of P.W.1 also shows that the accused took knife from the Broiler shop to inflict injury on the deceased.

6.Considering the above aspects, we are of the opinion that the Petitioner 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 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 Judicial Magistrate, Uthamapalayam.

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.

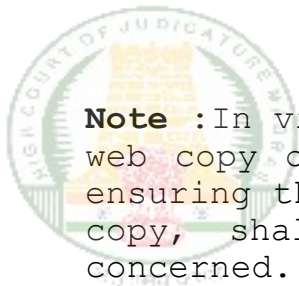
iii. The petitioner shall stay at Salem and appear before the learned Judicial Magistrate No.II, Salem at 10.30 a.m., on all working days, until further orders.

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 Judicial Magistrate No.II, Salem on any other day, as determined by the said Court, in lieu of the day on which they would absent.

sd/-
22/12/2020

/ TRUE COPY /

/ /2021
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.

WEB COPY

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
FAST TRACK COURT, THENI.
2. THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.
4. THE JUDICIAL MAGISTRATE No.II, SALEM.
5. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SALEM DISTRICT.
6. THE INSPECTOR OF POLICE,
GUDALUR SOUTH POLICE STATION,
THENI DISTRICT.
7. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
8. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4111 of 2020
IN
CRL A(MD) No.268 of 2020
Date : 22/12/2020

SKN
TK/PN/SAR.2/05.01.2021/4P/9C