



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

Monday, the Twenty First 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.4373 of 2020

IN

CRL A(MD) No.64 of 2020

1 VEERAMANI

2 ANBUSUNDARAM

... PETITIONERS/APPELLANTS/ACCUSED Nos.1 & 2

Vs

STATE THROUGH

THE INSPECTOR OF POLICE,

VADAMADURAI POLICE STATION,

DINDIGUL DISTRICT.

(IN CRIME NO.300/2017) ... RESPONDENT/RESPONDENT/COMPLAINANT

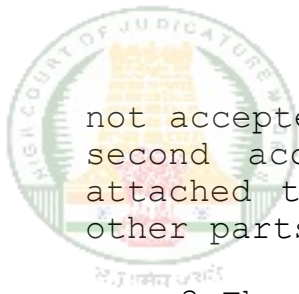
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to call for the entire records connected to the judgment in S.C.No. 105 of 2018 on the file of the Hon'ble Additional District and sessions Court, Dindigul dated 08.11.2019 and release the petitioners/Appellants/Accused Nos.1 and 2 on the bail till the disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.ALAGUMANI, 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.]

This appeal is presented by the convicted accused in S.C.No.105 of 2018 on the file of the Additional District and Sessions Court, Dindigul.

2.There are totally two accused in this case. It is the case of the prosecution that the deceased Suppukalai is the father of P.W.1, the defacto complainant. The deceased is paternal uncle of A.1, while the second accused is his brother-in-law. According to the prosecution, the deceased and the father of the first accused are brothers and they owned ancestral properties. When the first accused approached the deceased to partition the ancestral property, it was



not accepted by him and hence, on 22.08.2017, at 8.45 p.m., when the second accused caught hold of the deceased, the first accused attached the deceased with M.O.1-knife on his chest, shoulder and other parts of the body, due to which he died on the spot.

3.The prosecution, in order to establish its case, examined P.Ws.1 to 6 and marked Exs.P1 to P23 and M.Os.1 to 7. On the side of the accused, A.1 was examined as P.W.1 and Ex.D.1 was marked.

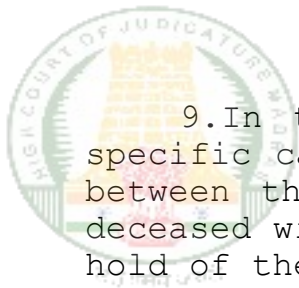
4.The trial Court, after analysing the evidence convicted both the accused for the charges under Sections 342 and 302 r/w 34 I.P.C. and hence this appeal.

5.Mr.R.Alagumani, learned counsel for the petitioner would argue that as per the case of the prosecution, the first accused attacked the deceased with M.O.1-knife, but P.W.11-Doctor, who conducted postmortem has categorically deposed that the nature of injuries are lacerated and hence the first accused would not have caused injury on the deceased with M.O.1-knife. It is next contended that there is an unexplained delay in sending the First Information Report to the Court. According to the learned counsel, though the case was registered at 21.45 hours on 28.08.2017 for the occurrence took place at 20.45 hours, the First Information Report reached the Court only at 11.50 a.m. on 29.08.2017. The learned counsel drew the attention of this Court to the evidence of P.W.14, who has stated that the First Information Report was handed over to him only at 10.30 a.m. on 29.08.2017. It is further contended that the independent witness Ramakrishnan and Prabakaran, who have been examined as P.Ws.4 and 6 did not support the case of the prosecution and the other alleged eye witnesses are the kith and kin of the deceased and hence, the petitioners are entitled for suspension of sentence.

6.Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor would vehemently oppose the petition contending that the prosecution produced P.Ws.1 to 4 and 6 as eye witnesses to the occurrence and even though P.Ws.4 and 6 have turned hostile, the other three witnesses P.Ws.1 to 3 have cogently deposed in favour of the prosecution case and on that basis, the trial Court has rightly convicted the accused. It is the further submission of the learned Additional Public Prosecutor that the delay has been explained by the prosecution and prayed for dismissal of this petition.

7.Heard the rival submissions and perusal the materials available on record.

8.The learned counsel for the petitioner seeks permission of this Court to withdraw this petition in respect of the first petitioner / first accused and hence, this petition against the first petitioner / first accused is dismissed as withdrawn.



9. In the matter on hand, the prosecution has come up with a specific case that on 22.08.2017, at 8.45 p.m., due to land dispute between the accused and the deceased, A.1 caused injuries on the deceased with M.O.1-knife and at that time the second accused caught hold of the deceased.

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10. Considering the overact attributed against the second petitioner / second accused and also taking note of the submissions made by the learned counsel for the petitioner, this Court is of the opinion that during the pendency of the appeal, the second petitioner / second accused is entitled for suspension of 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 Judicial Magistrate, Vedasandur, Dindigul District.
- 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 / second accused shall appear before the learned Judicial Magistrate, Vedasandur, Dindigul District, 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/-
21/09/2020

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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 ADDITIONAL DISTRICT AND SESSIONS JUDGE, DINDIGUL
- 2.THE JUDICIAL MAGISTRATE,
VEDASANDUR, DINDIGUL DISTRICT.
- 3.DO THRO'THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.
- 4.THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 5.THE INSPECTOR OF POLICE
VADAMADURAI POLICE STATION, DINDIGUL DISTRICT.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4373 of 2020
IN
CRL A(MD) No.64 of 2020
Date :21/09/2020

rj2

AE/JC/SAR-II (30.09.2020) 4P 7C