



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

Wednesday, the Eleventh day of November Two Thousand and Twenty

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM  
and

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4567 of 2020

IN

CRL A(MD) No.285 of 2020

VEERAKUMAR @ VEERAPPAN

... APPELLANT/PETITIONER

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE,  
THEVARAM POLICE STATION,  
THENI DISTRICT,  
CRIME NO.95 OF 2016

... RESPONDENT/RESPONDENT

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 S.C.No.117 of 2016 on the file of Additional District and sessions Judge (Fast Track), Theni District dated 09.07.2020 and enlarge me on bail pending disposal of the Appeal.

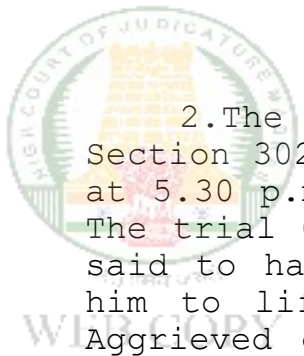
Prayer in CRL A(MD) No.285 of 2020:

To call for the records set aside as against the appellant in the Judgment dated 09.07.2020 in S.C.No.117 of 2016 on the file of the Additional District and sessions Judge (Fast Track), Theni, and acquit the appellant of all the charges, there by allow the present appeal as prayed for and thus render justice.

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.P.SENKUTTU ARASAN, Advocate for the petitioner and of MR.K.K.RAMAKRISHNAN, 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 Criminal Appeal is filed by the accused challenging the conviction and sentence imposed by the Additional District and Sessions Judge(Fast Track), Theni District in S.C.No.117 of 2016.



2.The Petitioner/accused was tried for the charge under Section 302 IPC for having caused the death of Maniraj on 19.3.2016 at 5.30 p.m at Nallukarai Road, near Village Link Road, Thevaram. The trial Court, mainly relying upon the evidence of P.W.4, who is said to have seen the occurrence, found him guilty and sentenced him to life imprisonment and also imposed a fine of Rs.1000/- Aggrieved over the conviction and sentence, the present Criminal Appeal has been filed.

3.The prosecution case is that the accused and the deceased are friends and the deceased used to visit the house of the accused. However, he developed illicit intimacy with the wife of the accused Kavitha which was reprimanded by the accused. Hence she left to her parents house at Thiruppur. Enraged over the act of the deceased, on 19.3.2016 at 5.30 p.m., the accused inflicted fatal injuries by assaulting the deceased with M.O.1 Aruval and caused the death of the deceased. Though the prosecution projected P.W.1 to P.W.4 as eyewitness to the occurrence, the trial Court has disbelieved the evidence of P.W.1 to P.W.3 and gave a finding of guilt on the accused relying upon the evidence of P.W.4.

4.Mr.Senkuttu Arasan, learned counsel appearing for the Petitioner would argue that the evidence of P.W.4 would ample to prove that P.W.1-father, P.W.2-brother and P.W.3-mother of the deceased would not have seen the occurrence and the trial Court has rightly rejected their evidence. It is the submission of the learned counsel for the Petitioner that in the course of evidence, P.W.4 has also stated that he infomed the brother of the deceased stating that he was attacked by some persons. Taking advantage of this part of evidence of P.W.4, it is contended that P.W.4 also would not have seen the occurrence and he has not stated that the injuries were caused by the accused. It is also contended that even the prosecution case is accepted, the accused cannot be convicted under Section 302 of IPC, since it might have been caused due to sudden and sustained provocation.

5.Per contra, Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the respondent would submit that the evidence of P.W.1 to P.W.3 would prove that the accused had a motive to kill the deceased. It is the submission of the learned Additional Public Prosecutor that P.W.4, who is the independent witness, has seen the occurrence and there is no reason to discard the evidence of P.W.4 and the evidence of P.W.4 is also corroborated by medical evidence.

6.In the instant case, it is the case of the prosecution that the accused is a friend of the deceased and the deceased, however, developed illicit intimacy with his wife. When this was objected to by the accused, she also left the matrimonial home and joined with her parents, who reside at Thiruppur. In para 20 of the trial Court judgment, the evidence of P.W.4 has been extracted and from the said



extract, we are able to see that the accused informed the brother of the deceased stating that somebody was attacking him. In our considered opinion, this creates reasonable doubt over the prosecution evidence.

7. Considering the above aspects, we are of the opinion that the accused 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 alone 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, Bodi, Theni District.

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 appear before the learned Judicial Magistrate, Bodi, Theni 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 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 Trial Court on any other day, as determined by the Trial Court, in lieu of the day on which they would absent.

sd/-  
11/11/2020

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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 ADDITIONAL DISTRICT AND  
SESSIONS JUDGE (FAST TRACK),  
THENI DISTRICT.



2 THE JUDICIAL MAGISTRATE,  
BODI, THENI DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
THENI.

4 THE INSPECTOR OF POLICE,  
THEVARAM POLICE STATION,  
THENI 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.4567 of 2020  
IN  
CRL A(MD) No.285 of 2020  
Date :11/11/2020

VSN  
JM/PN/SAR II/18.11.2020/4P/7C