



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

Tuesday, the Eighth 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.6128 of 2020
IN
CRL A(MD) No.594 of 2019

CHINNAKALAI @ RENGANATHAN

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
THOGAMALAI POLICE STATION,
KARUR DISTRICT.
CRIME NO.472 OF 2017.

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the Petitioner on bail by Suspending the Sentence imposed upon the Petitioner in S.C.No.37 of 2018 on the file of the Learned Sessions Judge, Karur, Karur District, dated 31.10.2019 pending disposal of the main Criminal Appeal.

PRAYER IN CRL A(MD) No.594 of 2019:

Pleased to call for the records in S.C.No.37 of 2018 on the file of the learned Sessions Judge, Karur, Karur District and Set Aside the Judgment dated 31.10.2019 and Acquit the Appellant of the Charges leveled against the petitioner.

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.A.THIRUVADI KUMAR, Advocate for the petitioner 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 judgment and the order of conviction by the Sessions Judge, Karur, convicting the appellant/Petitioner under Section 302 IPC and imposing life imprisonment in Sessions Case in S.C.No.37 of 2018, is assailed in this Criminal Appeal. Pending appeal, the appellant/petitioner seeks suspension of sentence.



2. The case of the prosecution is that the accused and the deceased belong to the same village and there was a pathway dispute existing between them. It is the further case that on 19.10.2017 at 1.00 p.m., when the deceased Ponnambalam was sitting in front of the Chicken Shop, the accused came in a two wheeler and picked up quarrel with the deceased and thereafter, took a knife from the chicken shop and caused fatal injuries. It is also the case of the prosecution that on the previous day of the occurrence ie., on 18.10.2017, the deceased had gone to the house of the accused and had a wordy quarrel with the mother of the accused. The prosecution projected P.W.1 to P.W.3 as eye-witness to the occurrence. P.W.1 is the defacto complainant and also the Cousin of the deceased. While P.W.2 and P.W.3 are the brother's son and nephew of the deceased respectively. P.W.4 and P.W.5 are the wives of the deceased.

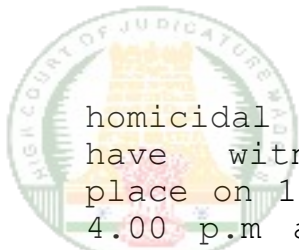
3.The trial Court accepting their evidence, held the accused guilty and imposed the sentence as stated supra.

4.Mr.A.Thiruvadi Kumar, learned counsel appearing for the petitioner would argue that the presence of P.W.1 to P.W.3 in the scene of occurrence is highly doubtful. According to the learned counsel, there are material contradictions in the evidence of P.W.1, P.W.2 and P.W.3 with regard to the lodging of the complaint. According to P.W.1, he went to the Police Station on 19.10.2017 and lodged the complaint at 2.30 p.m., which is also attested by P.W.3. But P.W.2 in his evidence, stated that the complaint was laid at 7.30 p.m.. It is next contended that the prosecution failed to produce the Accident Register Copy, which would show that the occurrence had taken place in front of the house of the deceased and he was assaulted by two accused and he sustained three injuries. It is lastly contended that even if the prosecution case is accepted, the accused is entitled to exception under Section 302 IPC, since it was not a pre-planned murder.

5.Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor would oppose the application contending that the motive for the occurrence and the overt-act attributed to the accused have been categorically proved by the prosecution through eye-witnesses P.W.1 to PW.3. According to the learned Additional Public Prosecutor, they are close relatives to the deceased and their evidence is natural and credible. The arrest and recovery of the weapon also proved by the prosecution simply because there is minor contradiction in the evidence of P.W.1 and P.W.3 that would not have consequence on the case of the prosecution.

6.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

7.In the case on hand, admittedly, the occurrence is said to have taken place on 19.10.2017 and the deceased died due to



homicidal violence. According to the prosecution, P.W.1 to P.W.3 have witnessed the occurrence. Though the occurrence had taken place on 1.00 p.m. On 19.10.2017, the complaint was lodged only at 4.00 p.m and it reached the Judicial Magistrate at 10.00 p.m on 19.10.2017. P.W.1 has given evidence that immediately after the occurrence, the deceased was taken by P.W.2 to the hospital and he straight-away went to the Police Station to lodge the complaint. According to him, the complaint was lodged at 2.30 p.m, but P.W.3, who has attested the First Information Report would say that the complaint was lodged at 7.30p.m. That apart, P.W.17 and P.W.18, who are the Investigating Officers of the case would categorically admit in the Accident Register, it is stated that the occurrence had taken place in front of the house of the deceased and the deceased was attacked by two persons. It is further mentioned that the deceased was taken by P.W.2 and P.W.3 to the hospital. In the light of the above material contradictions, we are of the view that the petitioner is entitled for suspension of sentence, pending 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 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 No.I, Kulithalai, Karur 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 No.I, Kulithalai, Karur 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.

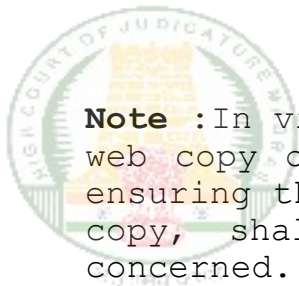
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08/12/2020

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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.

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TO

1. THE SESSIONS JUDGE,
KARUR, KARUR DISTRICT.
 2. THE JUDICIAL MAGISTRATE NO.I,
KULITHALAI, KARUR DISTRICT.
 3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
 4. THE INSPECTOR OF POLICE,
THOGAMALAI POLICE STATION,
KARUR DISTRICT.
 5. THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPPALLI.
 6. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.A.THIRUVADI KUMAR Advocate SR.No.8030

ORDER
IN
CRL MP (MD) No.6128 of 2020
IN
CRL A (MD) No.594 of 2019
Date : 08/12/2020

VSN
TK/PN/SAR.4/16.12.2020/4P/8C