



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

Friday, the Eleventh day of December 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.6218 of 2020

IN

CRL A(MD) No.265 of 2020

POOJAIMANI

... PETITIONER/APPELLANT/ACCUSED No.1

Vs

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

... COMPLAINANT/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 of Imprisonment imposed by the Principal District Sessions Court, Sivagangai District at Sivagangai in S.C.No.105 of 2012 by the Judgment dated on 27.02.2020 and to enlarge the Appellant/petitioner on bail, pending disposal of the above Criminal Appeal.

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 up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.KUMAR, Advocate for the petitioner 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 petitioner herein along with fifteen other accused were tried by the Principle Sessions Judge, Sivagangai for the charge of murder. The conviction and sentence imposed on the petitioner/A1 are as follows:

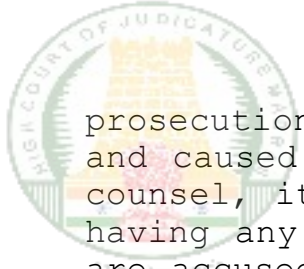


Accused	Section of Law	Sentence of imprisonment
A1	148 I.P.C.	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
	302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default 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.

2. Challenging the conviction and sentence imposed by the learned Sessions Judge, the petitioner/A1 and the accused No.8 have filed the above criminal appeal and during the pendency of the criminal appeal, the accused No.8 have been granted suspension of sentence and now, the petitioner has 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. Ms. E. S. Kumar, learned counsel for the petitioner would submit that except this petitioner, all other accused in S.C.No.105 of 2012 have been granted suspension of sentence and as per the



prosecution witnesses, the petitioner/A1 held the deceased in hand and caused injury on his chin and chest. According to the learned counsel, it is highly impossible. That part, the petitioner is not having any other case. But the prosecution witnesses in this case are accused in a triple murder accused and they are now in judicial custody. The learned counsel further submit that if this Court grants suspension of sentence, the petitioner is ready to abide any condition imposed on him and he will not seek relaxation for a minimum for a period of six months.

5. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would argue that the overt acts attributed against the petitioner is 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, the petitioner is not entitled for suspension of sentence. The learned Additional Public Prosecutor would further submit that the petitioner is a member of unlawful assembly and the Trial Court has rightly convicted the petitioner for the offence committed by him. He would add that the petitioner is not similarly placed that of the accused, who were granted bail by suspending their sentence.

6. 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, we are inclined to suspend the substantive sentence of imprisonment imposed on the petitioner/A1.

7. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner (A1) is suspended, subject to the following conditions:

- i. The petitioner (A1) 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 petitioner (A1) shall stay at Thuckalay, Kanyakumari District and report before the learned Judicial Magistrate No.2, Thuckalay, at 10.30 a.m. on all the working days until further orders.
- iv. It is made clear that the petitioner (A1) shall not enter into the jurisdiction of the respondent Police.



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v. On any particular date, if the petitioner (A1) 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.

vi. The petitioner is not entitled to file a relaxation petition for a period of six months from today.

sd/-

11/12/2020

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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

TO

1. THE PRINCIPAL SESSIONS JUDGE, SIVAGANGAI.
2. THE JUDICIAL MAGISTRATE, MANAMADURAI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
4. THE JUDICIAL MAGISTRATE No.2, THUCKALAY.
5. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
6. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
7. THE INSPECTOR OF POLICE,
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT.
8. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.6218 of 2020 IN
CRL A(MD) No.265 of 2020
Date :11/12/2020