



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

Monday, the Tenth day of February Two Thousand Twenty

PRESENT

WEB COPY

The Hon`ble Mr.Justice T.RAJA
and
The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.9339 of 2019
IN
CRL A(MD) No.516 of 2019

1 R. MARIMUTHU @ SURESH @ KOZHI SURESH,

2 SHOBANA @ SATHYA

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY
THE ASSISTANT COMMISSIONER OF POLICE,
SRIRANGAM CIRCLE, TIRUCHIRAPPALLI CITY.
(CRIME NO.461/2013)

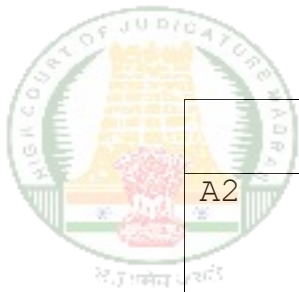
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on us by order dated 25.04.2019 passed in Spl. SC No.5/2015 on the file of the learned 1st Additional District and Sessions Judge, (PCR) Trichy pending disposal of the Criminal appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S. B. JAMEEL ARASU, 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 T.RAJA, J.]

The appellants herein are A2-Marimuthu and A3-Shobana, who tried before the trial Court in Special S.C.No.5 of 2015 for the following offences:



WEB COPY

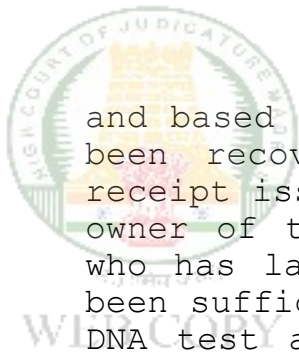
	charged under Sections	Conviction & Sentence
A2	120(b) r/w 302 IPC	To undergo life imprisonment and to pay a fine of Rs.1,000/- each for the offence u/s.120(b) r/w. 302 IPC, in default, to undergo simple imprisonment for six months.
	302 r/w. 34 IPC	To undergo life imprisonment and to pay a fine of Rs.1,000/- each for the offence u/s. 302 r/w. 34 IPC, in default, to undergo simple imprisonment for six months.
	2001 r/w. 302 r/w. 34 IPC	To undergo three years simple imprisonment and to pay a fine of Rs.1,000/- each for the offence u/s. 201 r/w 34 IPC, in default, to undergo simple imprisonment for three months.
A3	120(b) r/w 302 IPC	To undergo life imprisonment and to pay a fine of Rs.1,000/- each for the offence u/s.120(b) r/w. 302 IPC, in default, to undergo simple imprisonment for six months.

Challenging the said conviction and sentence, the appellants/Accuse Nos.2 and 3 have filed the present appeal along with the Criminal Miscellaneous Petition for suspension of sentence.

2. The learned counsel appearing for the petitioners submitted that the occurrence said to have taken place at 1.00 p.m. on 15.12.2013 and when there was no eye-witness, the trial Court, based on the circumstantial evidence along with the extra judicial confession given by the accused (A1 to A3), has wrongly come to the conclusion that accused (A1 to A3) have strangulated the deceased and throw away the body of the deceased into a drain water pool (kuttai). Further, it is alleged that A1 and A2 severed the head of the deceased in order to erase the evidence and they had taken away the same to some other place. It is further submitted by the learned counsel appearing for the petitioners that when the last seen theory as deposed by P.W.18 was not supported with any other evidence, the trial Court, mainly based on the evidence adduced by P.W.18 and also based on the confession given by the accused, convicted the accused as stated above. Therefore, the conviction and sentenced imposed as against the appellants are not sustainable. Hence, the learned counsel prayed for suspension of sentence.

3. Opposing the above prayer, the learned Additional Public Prosecutor submitted that A2 and A3 also gave confession statement before P.W.1-VAO that after strangulating the deceased, they severed the head from the body, throw the body into the drain water pool (kuttai) and took away the head of the deceased to some other place in order to erase the complete evidence. Further, on the basis of

<https://hdservices.com/freesite/hdservices/>



and based on the confession statement given by A3, a gold chain has been recovered, which has been further corroborated by Ex.P58-receipt issued for pledging jewel, which has been recovered from the owner of the jewellery shop. That apart, the evidence of P.W.18, who has lastly seen the accused A1, A2, A3 with the deceased, has been sufficiently corroborated with the confession statement and the DNA test also clearly proved that the body also matched with the head of the victim. Therefore, the conviction and sentence imposed by the trial Court is sustainable.

4. Heard the learned counsel appearing for the petitioners as well as the learned Additional Public Prosecutor.

5. We do not find any disagreement on the submission made by the learned Additional Public Prosecutor that A2 and A3 have rightly given confession statement and based on the same, recovery has been made. Therefore, the trial Court, based on the confession statement and recovery, had convicted the accused. Therefore, we do not find any merits to entertain this petition.

6. Accordingly, the Criminal Miscellaneous Petition is dismissed.

sd/-
10/02/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE 1ST ADDITIONAL DISTRICT AND SESSIONS JUDGE, (PCR), TRICHY
2. THE ASSISTANT COMMISSIONER OF POLICE,
SRIRANGAM CIRCLE, TIRUCHIRAPPALLI CITY.
3. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
4. THE OFFICER INCHARGE,
SPECIAL WOMEN PRISON, TIRCHY.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.9339 of 2019
IN
CRL A(MD) No.516 of 2019
Date :10/02/2020

OGY

AE/VR/SAR-IV (05.03.2020) 3P 6C

<https://hcservices.ecourts.gov.in/hcservices/>