



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

Wednesday, the Fifth day of February Two Thousand Twenty

PRESENT

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

CRL MP(MD) No.11058 of 2019
IN
CRL A(MD) No.597 of 2019

A.CHANDRA MOHAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
MARENARI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.212 OF 2010

... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release the petitioner on bail pending disposal of this Criminal Appeal before this Hon'ble Court against the judgment in S.C.No.74 of 2011 dated 20.08.2019 in Crime No.212 of 2010 dated 7.10.2010, on the file of the Hon'ble Principal District Sessions Court, Virudhunagar, Srivilliputhur.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.RAMESH KUMAR, 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 T.RAJA, J.)

The appellant, who is the sole accused in S.C.No.74/20115 on the file of the Principal District Sessions Court, Virudhunagar at Srivilliputhur, was convicted for the offence under Section 302 IPC by judgment dated 11.11.2019 and sentenced to undergo imprisonment for life and to pay a fine of Rs.10,000/-, in default, to undergo rigorous imprisonment for one year, has preferred the present appeal. Pending appeal, he is before this Court with this petition seeking suspension of substantive sentence of imprisonment.



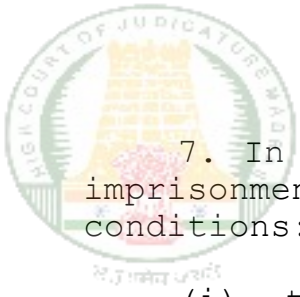
2. Learned counsel for the appellant assailing the reasonings given by the trial Court, argued that when four witnesses were relied on by the prosecution, none of them supported the case of the prosecution, inasmuch as P.W.-2 and P.W.-3, who are neighbours of the deceased, have turned hostile. P.W.-1/daughter of the deceased, having made an attempt to speak, but dispel the alleged motive. As a result, the evidence adduced by P.W.-1/daughter of the deceased, who is an interested witness, has been wrongly accepted by the trial Court and consequently, the trial Court convicted the appellant/accused.

3. Secondly, the learned counsel submitted that although there was no motive proved before the trial Court, even the trial Court has gone to the genesis of the prosecution case stated that when the appellant seriously doubted his wife for entertaining the deceased and after warning the deceased left the house, in the meanwhile, the wife of the accused is said to have entertained the deceased by offering coffee. Therefore, the theory of no motive, which is sought to be proved by P.W.-1 ought not to have been relied upon by the trial Court and this has to be examined by this Court.

4. Even P.W.-4 Ponnuthai, wife of the deceased also died. In addition thereto, the evidence of P.W.-7/the Village Administrative Officer also cannot be relied upon for several reasons, when there being no corroboratory evidence to support the evidence of P.W.-1, the trial Court ought not to have reached the conclusion against the appellant. In any event, when the appellant has got a fair chance of extending the serious contradictions that have been overlooked by the trial Court, the sentence can be suspended till the matter is taken up for final hearing, the learned counsel contended.

5. In reply, the learned Additional Public Prosecutor contended that when P.W.-2 and P.W.3, who were neighbours turned hostile, it is not necessary for the trial Court to ignore the evidence of P.W.-1, who is the daughter of the deceased. When P.W.-1 has rightly brought out the case of the prosecution, believing the evidence of P.W.-1, the trial Court rightly convicted the accused, which does not warrant any interference by this Court.

6. We find some merits on the submissions made by the learned counsel for the petitioner. The reason, being that when P.W.-1/daughter of the deceased, having spoken before the trial Court to show that there was no motive, it has not been supported by P.W.-2 and P.W.-3, as they turned hostile, whereas, the genesis of the case of the prosecution briefly stated by the trial Court to arrive at the conclusion shows that the evidence of P.W.-1/daughter of the deceased, should have been more carefully looked into. Accordingly, since there are arguable points in favour of the petitioner, this Court is inclined to suspend the substantive sentence of the petitioner in the pending appeal.



7. In the result, this petition is allowed and the sentence of imprisonment alone is suspended pending appeal with the following conditions:

(i) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Principal District Sessions Court, Virudhunagar, Srivilliputhur, and

(ii) The petitioner shall report before the concerned Court at 10.30 a.m., on the first working day of every month pending disposal of the appeal.

sd/-
05/02/2020

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

TO

- 1.THE PRINCIPAL DISTRICT SESSIONS JUDGE,
VIRUDHUNAGAR, SRIVILLIPUTHUR.
- 2.THE INSPECTOR OF POLICE
MARENARI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.R.ALAGUMANI Advocate SR.No.2382

ORDER
IN
CRL MP(MD) No.11058 of 2019
IN
CRL A(MD) No.597 of 2019
Date :05/02/2020

RR
TK/PN/SAR.2/10.02.2020/3P/6C