



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

Wednesday, the Nineteenth 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.10003 of 2019
IN
CRL A(MD) No.527 of 2019

1.MADHUBALAN
2.KANAGARAJ

... PETITIONERS/APPELLANTS No.2 and 3/
ACCUSED Nos. 2 and 3

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SIRUGANUR POLICE STATION,
TRICHY DISTRICT.
CRIME NO.190 OF 2015

... RESPONDENT/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 conviction made in the judgment in S.C.No.44 of 2019 on the file of the I Additional District and Sessions Court (PCR) Tiruchirappalli, dated 09.10.2019.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.N.ANANDAKUMAR, Advocate for the petitioners 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.]

This Criminal Appeal has been filed by the petitioners/accused Nos.2 and 3, who were found guilty by the trial Court in S.C.No.44 of 2019, for the offence under Section 302 r/w. 34 of IPC and sentenced to undergo life imprisonment (two counts) and to pay a fine of Rs.1,000/- each for each count, in default, to undergo two years simple imprisonment. Challenging the said conviction and sentence, the accused Nos.2 and 3 have preferred this criminal appeal along with the above miscellaneous petition for suspension of sentence.



2. Learned counsel appearing for the accused Nos.2 and 3 submitted that totally, there are three accused involved in this case. A1 is the father of A2, who is an Ex-serviceman and A3 is the brother-in-law of A1. On the date of occurrence, on 27.05.2015, when A1, A2 and A3 were erecting a shed in their land belonging to them, the deceased, namely, Thiruppathi and Arumugam, by taking advantage of the land dispute, attacked A1, A2 and A3. But, the case of the prosecution is that when the deceased were erecting a shed in their land, the accused Nos.1 to 3 attacked the deceased, which resulted in the death of the deceased. The learned counsel further submitted that in the said attack, A2 and A3 sustained multiple injuries and thereafter, they were rushed to the Government General Hospital, Trichy, where, the accused Nos.2 and 3 were taking treatment as in-patient and the discharge summary were also issued by the Department of Surgery, that has also been marked as Ex.P2. But, the prosecution has completely suppressed the injuries sustained by the accused Nos.2 and 3, which creates huge doubt on the investigation made by the investigating officer. It is further submitted that the accused Nos.2 and 3 have been undergoing incarceration from the date of conviction. Hence, the learned counsel prayed for suspension of sentence.

3. Learned Additional Public Prosecutor appearing for the respondent submitted that the discharge summary of A2 and A3, issued by the Government General Hospital, Trichy, has also been considered by the trial Court. However, the trial Court, after considering the oral and documentary evidence, disbelieved the case projected by the accused that the deceased were responsible for the attack that caused injuries to them. Therefore, the conviction and sentence imposed by the trial Court on the accused need not be interfered with.

4. Heard the learned counsel appearing for the accused and the learned Additional Public Prosecutor.

5. A perusal of the discharge summary, which was marked as Ex.P2, shows that A2 and A3 were admitted in the hospital on 27.05.2015 and they were discharged from the hospital on 01.06.2015. Further, it is seen that A2 sustained the following injuries:

"Head laceration of size 6 x 2 x 2 cm over the left parietal region;

Left Forearm - swelling of size 5 x 3 cm.

Right hand - tenderness in base of thumb

Laceration of size 1 x 0.5 x 0.5 cm seen in the right index finger, distal phalanx."

<https://hcservices.reports.gov.in/hcservices/>
AS also sustained the following injuries:



Head - laceration of size 4 x 0.5 x 0.5 cm over both parietal region

7 x 0.5 x 0.5 cm

4 x 0.5 x 0.5 cm

3 x 0.5 x 0.5 cm

LA suturing done with 1 silk.

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6. As rightly contended by the learned counsel appearing for the appellants, the accused Nos.2 and 3 had sustained grievous multiple injuries. Moreover, the accused were admitted in the hospital on 27.05.2015 and discharged after six days, i.e. on 01.06.2015, only to facilitate arrest of them, that also has not been properly discussed by the trial Court, which creates doubt on the investigation made by the Investigating Officer.

7. Though the discharge summary has been produced before the Trial Court, which shows the injuries sustained by the accused Nos.2 and 3, that has not been appreciated by the trial Court and there is no proper explanation given by the trial Court for not considering the seriousness of the injuries sustained by the accused Nos.2 and 3. Therefore, we are inclined to suspend the substantive sentence of imprisonment alone pending appeal.

8. In the result, the petition is ordered. The substantive sentence of imprisonment imposed against the petitioners/accused Nos.2 and 3 is suspended on condition that each of the petitioners 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 learned Judicial Magistrate, Lalgudi;

(a) Each of the petitioners shall report before the learned Judicial Magistrate, Lalgudi, at 10.30 a.m., on the first working day of every month pending disposal of the appeal;

(b) The petitioners shall not leave the jurisdiction of Tamil Nadu without seeking leave of this Court till the disposal of the Appeal; and

(c) The petitioners shall furnish their residential address, change of address, if any and the phone numbers to the respondent Police.

sd/-
19/02/2020

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



TO

1. THE I ADDITIONAL DISTRICT AND SESSIONS COURT (PCR),
TRICHY.

2. THE JUDICIAL MAGISTRATE,
LALGUDI.

3. THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.

4. THE INSPECTOR OF POLICE
SIRUGANUR POLICE STATION,
TRICHY DISTRICT.

5. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

6. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.N.ANANDAKUMAR Advocate SR.No.3524

ORDER
IN
CRL MP (MD) No.10003 of 2019
IN
CRL A (MD) No.527 of 2019
Date :19/02/2020

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TK/VR/SAR.2/20.02.2020/4P/8C