



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

Monday, the Sixth day of January 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.10803 of 2019**  
**IN**  
**CRL A(MD) No.585 of 2019**

CHANDRAN

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE,  
RAJAPALAYAM NORTH POLICE STATION,  
VIRUDHUNAGAR DISTRICT.  
(CRIME NO.721 OF 2015)

... RESPONDENT/RESPONDENT

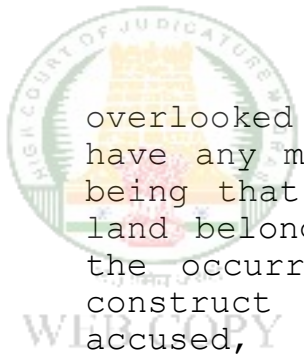
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentences passed in S.C.No.33 of 2016 dated 07.03.2018 on the file of the learned Principal District and Sessions Judge, Virudhunagar District sitting at Srivilliputhur pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr. S. POORNACHANDRAN, 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 petitioner/sole accused in S.C.No.33/2016 on the file of the learned Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur, having suffered the conviction and consequential sentence under Sections 294(b), 341, 302 and 506(ii) I.P.C, has come to this Court, seeking suspension of sentence, during the pendency of appeal.

2.Learned counsel appearing for the petitioner pleaded that when the motive alleged by the prosecution has not been substantiated as deposed by P.W.2, the trial court has completely



overlooked that aspect. Secondly, the petitioner/accused cannot have any motive at all as alleged by the prosecution. The reason being that when P.W.2 originally purchased a land adjacent to the land belonging to the accused from P.W.5, almost 3 years prior to the occurrence, after 3 years, when P.W.2 started proceeding to construct a house encroaching into the land belonging to the accused, when there was a wordy quarrel in the process, the deceased intervened without any basis, supporting the case of P.W.2. Consequently, it ended with fatal incident. From the date of arrest i.e on 20.01.2015, almost for the past 5 years, he has not even granted the benefit of bail, as a result, he is not able to conduct the case.

3.As a matter of fact, the matter was earlier referred before the Legal Aid Committee, attached with the District Court and they have not properly assisted the Court. As a result, the accused suffered impugned conviction and sentence. In support of his prayer, the learned counsel appearing for the petitioner/appellant/accused pleaded that the motive allegedly placed before the trial court has not been substantiated by the prosecution itself. When P.W.2, who is the brother-in-law of P.W.1 clearly and explicitly deposed before the trial court that there was no motive, the prosecution has come out with a case that there is motive between the accused and deceased. This aspect can be taken into consideration only at the time of final hearing.

4.Further, the learned counsel argued that there were cut injuries said to have been caused by M.O.1/aruvai recovered after 2 days from the date of arrest. The doctor's evidence does not state that the deceased sustained cut injuries caused by M.O.1, since all the injuries are pierce injuries. This vital aspect has not been properly dealt with by the Trial Court and the findings and conclusion reached by the Trial Court certainly requires reconsideration by this court, during the pendency of this appeal.

5.Opposing the above prayer, Mr.K.K.Ramakrishnan, learned Additional Public Prosecutor appearing for the State, submitted that it is not true to say that the motive placed before the trial court was not established. The reason being that even though P.W.2/brother-in-law of P.W.1 has deposed that there was no motive, the accused cannot get away from other evidences placed in support of the prosecution case that there was a wordy quarrel between P.W.2 and accused in respect of the civil dispute, the deceased who is a friend of P.W.2, intervened to avoid the altercation occurred between P.W.2 and accused. After purchasing the property from P.W.5, P.W.2 proceeded to put up construction, on taking severe instruction, the accused only invited the quarrel and created unwanted trouble, as a result, the deceased intervened and tried to pacify them and in that process, he was done away by the accused.



6. Coming to the cut injuries, the learned Additional Public Prosecutor submitted that even P.W.15/doctor viz., Murugesaraj also supported the case of the prosecution that there were injuries, which are sufficient to cause the death of the deceased.

7. But, on a perusal of the records, we are unable to appreciate those facts, when the prosecution placed their case before the trial court that the deceased died due to cut injuries, the doctor deposed that the injuries found on the body of the deceased are not cut injuries and those are pierce injuries. We have to examine those aspects only at the time of final hearing of appeal. However, considering the fact that the petitioner/accused has been languishing in jail for more than 5 years, we are of the view that impugned sentence alone can be suspended and he can be released on bail, pending appeal.

8. In the result, this petition is ordered. The substantive sentence of imprisonment imposed against the petitioner/accused is suspended on condition that the petitioner/accused 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, Rajapalayam;

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

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

(c) The petitioner shall furnish his residential address, change of address, if any and the phone numbers to the respondent police.

sd/-

06/01/2020

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

TO

1. THE JUDICIAL MAGISTRATE, RAJAPALAYAM.
2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,  
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
3. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,  
VIRUDHUNAGAR DISTRICT.



4. THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.

5. THE INSPECTOR OF POLICE,  
RAJAPALAYAM NORTH POLICE STATION,  
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.S.POORNA CHANDRAN, Advocate ( SR-187[I] dated  
06/01/2020 )

ORDER

IN

CRL MP(MD) No.10803 of 2019

IN

CRL A(MD) No.585 of 2019

Date :06/01/2020

VS

AE/JC/SAR-2 (09.01.2020) 4P 8C