



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

Wednesday, the Twenty Ninth day of January 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.10718 of 2019
IN
CRL A(MD) No.66 of 2019

MUTHUPANDI

... PETITIONER/APPELLANT/ACCUSED NO.1

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
ARUPPUKOTTAI TALUK POLICE STATION,
IN CRIME NO.67/2012,
VIRUDHUNAGAR DISTRICT.

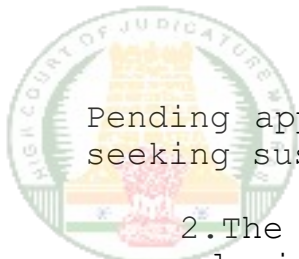
... RESPONDENT/RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the Petitioner / Appellant / Accused in S.C.No.166/2012 dated 22.01.2019 on the file of the Learned Additional District and Sessions Judge, Virudhunagar and enlarge him on bail till pending disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR. AK. AZAGARSAMY, Advocate for the petitioner and 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 is arrayed as accused No.1 in S.C.No.166/2012 on the file of the Additional District and Sessions Judge, Virudhunagar. He was convicted by judgment, dated 22.01.2019 for offence under Sections 302 and 506(II) IPC and sentenced to undergo life imprisonment and a fine of Rs.5,000/-, in default, to undergo three months rigorous imprisonment for offence under Section 302 IPC; to undergo rigorous imprisonment for two years for offence under Section 506(II) IPC. Against the conviction and sentence imposed, he is before this Court with the present criminal appeal.



Pending appeal, the accused is before this Court with this petition seeking suspension of substantive sentence of imprisonment.

2. The case of the prosecution is that A-1 and A-2 had a wordy quarrel with the deceased and they were pressurizing the deceased to give them money to drink alcohol. At about 6.30 p.m., on 06.03.2012, the deceased is said to have been abused and threatened by the accused persons and when P.W.-1, who is the son of the deceased, came to the scene of occurrence, he was physically held by A-2 and A-2 had further abetted A-1 to drop the stone in the head of the deceased and pursuant to the same, A-1 had put the stone in the head of the deceased. This incident had taken place on 06.03.2012 and the deceased died in the hospital, after six days on 12.03.2012.

3. The learned counsel for the petitioner submitted that when A-1 and A-2 involved in the alleged offence as projected by the prosecution, as against the conviction and sentence imposed by the trial Court, when A-2 moved this Court seeking suspension of sentence, this Court, by order dated 03.10.2019, suspended the sentence imposed on A-2. He further submitted that since A-2 has been granted the benefit of suspension of sentence, A-1, who also stands in the same footing, may be granted the same relief.

4. Opposing the above prayer, the learned Additional Public Prosecutor contended that there is a major significant factor between A-1 and A-2 and this Court cautiously taking note of the fact that A-2 is differently placed than that of A-1 and A-2 only caught hold of the deceased, had granted the benefit of suspension of sentence. However, as far as A-1 is concerned, he is the one, who put the stone on the deceased and as a result, the deceased died in the hospital after six days. Adding further, he submitted that A-1 is having bad antecedents and six previous cases were registered against A-1, which were ended in acquittal.

4. Considering the facts and circumstances of the case and considering the overt-act attributed as against A-1 and the previous antecedents, we are not inclined to suspend the substantive sentence of imprisonment. Accordingly, this petition fails and the same is dismissed.

sd/-
29/01/2020

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



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR.
2. THE INSPECTOR OF POLICE
ARUPPUKOTTAI TALUK POLICE STATION,
VIRUDHUNAGAR DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.10718 of 2019
IN
CRL A(MD) No.66 of 2019
Date :29/01/2020

RR
AE/JC/SAR-I (03.02.2020) 3P 5C