



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

Wednesday, the Twenty Second day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice T.RAJA
and

The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.11527 of 2019

IN

CRL A(MD) No.622 of 2019

1 THANGA PANDI

2 THANGA MARIMUTHU

... PETITIONERS/
APPELLANTS/ACCUSED 1 & 2

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
KAYATHARU POLICE STATION,
THOOTHUKUDI DISTRICT.
(IN CRIME NO.67/2015)

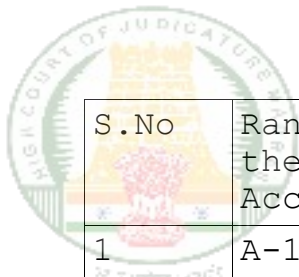
... RESPONDENT/
RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioners/appellants/accused in S.C.No.441/2015 dated 11.11.2019 on the file of the learned Mahalir Neethimandram (Fast Track Court), Thoothukudi and enlarge them on bail till the 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.R.VENKATESWARAN, 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, who are arrayed as accused Nos.1 and 2 in S.C.No.441/2015 on the file of the Mahalir Neethimandram (Fast Track Court), Thoothukudi, were convicted and sentenced by judgment dated 11.11.2019 as follows:



S.No	Rank of the Accused	Offence for which convicted	Sentence
1	A-1 & A-2	120(b) r/w 302 IPC	To undergo imprisonment for life, fine of Rs.2000/-, in default, to undergo rigorous imprisonment for three months
2	A-1 & A-2	302 r/w 115 IPC	To undergo rigorous imprisonment for five years and fine of Rs.2,000/- each, in default, to undergo rigorous imprisonment for three months
3	A-1	294(b) IPC	fine of Rs.1,000/-, in default, to undergo simple imprisonment for two weeks.

Pending appeal, A1 and A2 are before this Court with this petition seeking suspension of substantive sentence of imprisonment.

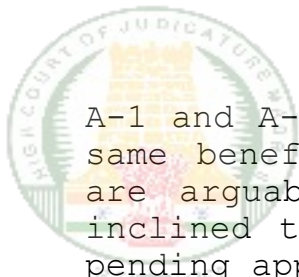
2.Learned counsel for the petitioners argued that,

(a) when there are two allegations projected by the prosecution side that there was unreasonable demand of dowry by A-1, who also instigated the other accused, the said allegation has not been substantiated;

(b) It is the prosecution case that since A-1 has two daughters and in order to have a male issue, A-2 to A-5 made arrangements for the marriage of A-1 with the daughter of A-4, who is the sister of A-1, which is untenable, since A-1 is having two daughters, who are aged 8 and 5 years respectively, it is highly improbable for anyone to get their daughter married to a person, who has got two daughters, and

(c) It is contended that when it was the finding of the Court below that only A-5, son of A-4 and nephew of A-1, caused the death of the deceased, there is no evidence against A-1 to A-4. Therefore, considering the same, earlier, this Court suspended the sentence imposed on A-3 and A-4. When there is no overt-act attributed against A-1 and A-2 and admittedly, A-5, against whom, the charge of causing death of the deceased has been made out and even now, A-5 is absconding, in the absence of any acceptable evidence, it is highly not advisable to keep A-1 and A-2 in incarceration till the matter is taken up for final hearing. Since A-1 and A-2 are similarly placed on par with A-3 and A-4, the same benefit may be extended to these petitioners also.

3. After hearing the learned Additional Public Prosecutor appearing for the respondents, we are unable to disagree with the prayer made for suspending the sentence of imprisonment in favour of the petitioners. When this Court has already found that A-3 and A-4 were entitled to the benefit of suspension of sentence, finding that



A-1 and A-2 are also placed on par with A-3 and A-4, we extend the same benefit to these petitioners also. Accordingly, since there are arguable points in favour of the petitioners, this Court is inclined to suspend the substantive sentence of imprisonment alone pending appeal.

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

(i) the petitioners/A-1 and A-2 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the Mahalir Neethimandram (Fast Track Court), Thoothukudi, and

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

sd/-
22/01/2020

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

TO

- 1 THE JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK COURT),
THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE
KAYATHARU POLICE STATION,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.RVENKATESWARAN, Advocate (SR-1102[I] dated 22/01/2020)

ORDER
IN
CRL MP(MD) No.11527 of 2019
IN
CRL A(MD) No.622 of 2019
Date :22/01/2020

RR

<https://hcmvcsrecords.mca.gov.in/hcmvcsrecords/3P/6C>