



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

CrI.M.P.No.1462 of 2021

in CrI.A.No.61 of 2021

Vinoth Kumar @ Vinoth

.. Petitioner/A1

Vs.

State through its
Station House Officer,
Bahoor Police Station,
Puducherry.

(Crime No.38 of 2017)

.. Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 374 (2) Cr.P.C., to suspend the sentence imposed upon the petitioner by judgment and order dated 14.08.2020 passed in S.C.No.35 of 2017 on the file of the learned Principal Sessions Judge, Puducherry, and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.A.K.Rajaraman

For Respondent : Mr.Bharatha Chakravarthy
Additional Public Prosecutor

ORDER

(Order of the Court was made by R.PONGIAPPAN, J.)

This criminal miscellaneous petition has been preferred, seeking to suspend the sentence imposed upon the petitioner/A1, by judgment and order dated 14.08.2020 passed in S.C.No.35 of 2017 on the file of the learned Principal Sessions Judge, Puducherry, and to enlarge the petitioner/A1 on bail pending disposal of the appeal.

2. The case of the prosecution is that on 10.05.2017 at about 7.20 pm, the petitioner/A1, with an intent to murder one Swathan, kidnapped



him in a motorcycle bearing Regn.No.PY01 CL 7153, went to an empty plot at Gokul Nagar Layour, Bahour, Puducherry and thereafter, with the help of other accused, due to previous enmity, assaulted the deceased with a veecharuval, on his neck and when the deceased Swathan fell down on the ground, the accused No.2, in this case caught hold of his hands and accused No.3, caught hold of his legs and wrongfully confined the deceased escaping from the spot and the petitioner/A1, severed the head of the deceased and also brutally assaulted on his both hands and legs several times by using the same veecharuval, resulting in the amputation of his left forearm, due to which the deceased died of decapitation of head, resulting in cut injuries on his neck. For the said occurrence, a case has been registered against the petitioner/A1 and others in Crime No.38 of 2017, on the file of Bahour Police Station, Puducherry, under Sections 364 and 302 r/w 34 IPC.

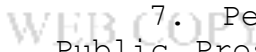
3. After concluding the trial, by judgment dated 14.08.2020, the learned Principal Sessions Judge, Puducherry, came to the conclusion that the petitioner/A1 is guilty of the offence under Sections 364 and 302 IPC. Accordingly, the petitioner/A1 was convicted and sentenced as follows:

Offence	Sentence
364 IPC	Rigorous imprisonment for 10 years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for 3 months.
302 IPC	imprisonment for life and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for 3 months.

4. Challenging the above conviction and sentence, the petitioner/A1 has filed Crl.A.No.61 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.A.K.Rajaraman, learned counsel for the petitioner and Mr.Bharatha Chakravarthy, learned Additional Public Prosecutor appearing for the respondent/State.

6. Mr.A.K.Rajaraman, learned counsel appearing for the petitioner/A1 would contend that before the trial Court, the prosecution has not proved their case beyond reasonable doubt. Further, in the judgment rendered by the trial Court, in paragraph No.125, the learned trial Judge has clearly held that the investigation officer in this case had failed to prepare Mahazar in the place where the human head was thrown and also failed to prepare Mahazar in the place where the human head fell down. Further, it is held that the investigation officer has failed to collect the CCTV particulars from Reddichavadi Police Station. Therefore, the said



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typed set of papers immediately and list the main appeal for final hearing in the month of August 2021.

-sd/-

24/06/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSIONS JUDGE,
PUDUCHERRY.

2 THE STATION HOUSE OFFICER,
BAHOOR POLICE STATION,
PUDUCHERRY.

3 THE SUPERINTENDENT,
KALAPET CENTRAL PRISON, PUDUCHERRY.

4 THE PUBLIC PROSECUTOR,
PUDUCHERRY.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1 C.C. to M/S.A.K.RAJARAMAN Advocate on payment of necessary
charges SR.NO. 6818

Order
in
CRL MP.1462/2021
in
CRL A.61/2021

Date :24/06/2021

From 7.2.2001 the Registry is issuing certified
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MN-29/06/2021