



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

Friday, the Eighth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice G.ILANGO VAN

Crl.M.P.(MD) Nos.3 & 4 of 2021
in
Crl.A.(MD) No.2 of 2021
and
Crl.M.P(MD)No.36 of 2021
in
Crl.A(MD)No.4 of 2021

Crl.M.P.(MD) No.3 of 2021 in Crl.A.(MD) No.2 of 2021:

RAMESH

... PETITIONER/ APPELLANT/
ACCUSED No.5

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KADAYAM POLICE STATION,
TENKASI DISTRICT.
CRIME NO.226 OF 2011

... RESPONDENT/ RESPONDENT/
COMPLAINANT

PRAYER IN Crl.M.P.(MD) No.3 of 2021 in Crl.A.(MD) No.2 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the execution of sentence by granting bail in S.C.No. 27/2014 on the file of the III Additional Sessions Judge Tirunelveli, Tirunelveli District dated 15.12.2020 till the disposal of the Criminal appeal.

Prayer in Crl.A.(MD) No.2 of 2021:

To admit the appeal preferred by this Appellants/ Accused Nos.4 & 5 and call for the records from the Lower court S.C.No.27/2014 on the file of the III Additional Sessions Judge, Tirunelveli, Tirunelveli District and set aside the conviction and sentence dated 15.12.2020, imposed on the Appellants.



Crl.M.P.(MD) No.4 of 2021 in Crl.A.(MD) No.2 of 2021:

GANAPATHY

... PETITIONER/ APPELLANT/
ACCUSED No.4

Vs

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STATE REP.BY
THE INSPECTOR OF POLICE
KADAYAM POLICE STATION,
TENKASI DISTRICT.
CRIME NO.226 OF 2011

... RESPONDENT/ RESPONDENT/
COMPLAINANT

PRAYER IN Crl.M.P.(MD) No.4 of 2021 in Crl.A.(MD) No.2 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the execution of sentence by granting bail in S.C.No. 27/2014 on the file of the III Additional Sessions Judge Tirunelveli, Tirunelveli District dated 15.12.2020 till the disposal of the Criminal appeal.

Crl.M.P(MD)No.36 of 2021 in Crl.A(MD)No.4 of 2021:

1. CHELLAPPA
2. SANKARAMMAL
3. RAJ @ RAJKUMAR
4. THANGAMARI

... PETITIONERS/ APPELLANTS 6 TO 9

- VS. -

STATE REP.BY
THE INSPECTOR OF POLICE
KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.

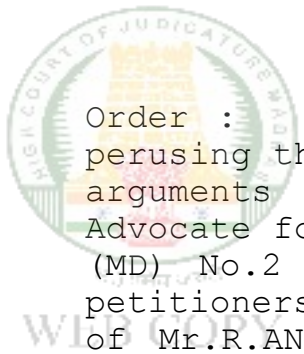
... RESPONDENT/ RESPONDENT

Prayer in CRL MP(MD) . 36/ 2021 in Crl.A(MD)No.4 of 2021:

To suspend the sentence of imprisonment imposed by the learned 3rd Additional Sessions Judge, Tirunelveli in S.C.No.27/2014 dated 15.12.2020 and enlarge the petitioners / accused No.6, 7, 8 and 9 on Bail, pending disposal of above Criminal Appeal.

PRAYER in Crl.A(MD)No.4 of 2021:

To call for the records and set aside the judgment and conviction dated 15.12.2020 passed by the learned 3rd Additional Sessions Judge, Tirunelveli in S.C.No.27/2014 and acquit the Appellants.



Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.V.KATHIRVELU, Senior Counsel for Mr.K.PRABHU, Advocate for the petitioner CrI.M.P.(MD) Nos.3 & 4 of 2021 in CrI.A.(MD) No.2 of 2021 and Mr.G.KARUPPASAMY PANDIAN, Advocate for the petitioners in CrI.M.P(MD)No.36 of 2021 in CrI.A(MD)No.4 of 2021 and of Mr.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent in all the petitions, the court made the following order:-

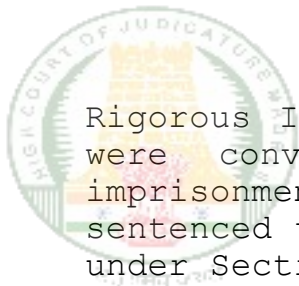
[Order of the Court was made by **K.KALYANASUNDARAM, J.**]

These criminal miscellaneous petitions have been filed by the petitioners/appellants seeking to suspend the substantive sentence of imprisonment imposed on them by the learned III Additional Sessions Judge, Tirunelveli, by Judgment dated 15.08.2020 in S.C.No.27 of 2014.

2. Totally nine accused were tried by the III Additional Sessions Judge, Tirunelveli for the charges punishable under Sections 147, 148, 294(b), 342, 323, 302 r/w 149, 307 and 307 r/w 149 of IPC for causing death of one Chandrasekar @ Panju on 25.07.2011.

3. It is the case of the prosecution that on 24.07.2011 at 07.00 p.m., there was a special Pooja for rain at Mandhiyoor Mupidathiamman Temple. The accused Nos.1 to 7 and the deceased party belonged to Mandhiyoor village, accused Nos.8 & 9 are native of Ilanchi and Alwarkuruchi respectively. It is the further case of the prosecution that in the temple festival, a dance programme was conducted. Since all the accused were standing in the middle of the road a quarrel arose between the accused and the deceased and the matter was compromised at the intervention of one Anbalagan and Devendran. Annoyed over the incident, on the next day i.e., on 25.07.2011 at 03.00 p.m., when the deceased along with Mariappan and Muthukumar were standing in front of one Velmurugan's house, A1 with knife, A2 with aruval and A3 with stick came there and other accused were also joined with them, thereafter, the accused with intention to riot abused the deceased with filthy language and A1 attacked the deceased with knife; A2 and A3 assaulted P.Ws.2 & 3; A4 said to have instigated the other accused to attack P.W.2; A7 to A9 attacked P.W.1 with hands and A5 & A6 are the members of un-lawful assembly.

4. The trial Court, on appreciation of evidence adduced by the prosecution, found A1 guilty for the charges under Section 302 of IPC and convicted and sentenced him to undergo Life Imprisonment and imposed a fine of Rs.1,000/- in default to undergo one month simple imprisonment. The other accused A2 to A9 were convicted and sentenced to undergo one year simple imprisonment under Section 147 of IPC, A1 and A2 were convicted and sentenced to undergo one year



Rigorous Imprisonment under Section 148 of IPC, A3, A7, A8 and A9 were convicted and sentenced to undergo six months simple imprisonment under Section 323 of IPC, A2 was convicted and sentenced to undergo five years rigorous imprisonment for an offence under Section 307 of IPC.

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5. Aggrieved over the conviction and sentence, A4 and A5 preferred an appeal in CrI.A(MD)No.2 of 2021 and A1, A6 to A9 preferred an appeal in CrI.A(MD)No.4 of 2021.

6. Heard Mr.V.Kathirvelu, learned Senior Counsel appearing for the appellants in CrI.A(MD)No.2 of 2021, Mr.G. Karuppasamy Pandian, learned counsel appearing for the appellants in CrI.A(MD)No.4 of 2021 and Mr.R.Anandaraj, learned Additional Public Prosecutor appearing for the State.

7. It is submitted by Mr.V.Kathirvelu, learned Senior Counsel and Mr.G.Karuppasamy Pandian, learned counsel that the accused Nos.4, 5 & 6 were convicted only for an offence under Section 147 of IPC and sentenced to undergo one year simple imprisonment and A7 to A9 were convicted and sentenced to undergo one year simple imprisonment under Section 147 of IPC and sentenced to undergo six months simple imprisonment under Section 323 of IPC by the trial Court vide judgment dated 15.12.2020 and their sentences have been suspended for a period of 30 days. It is also submitted that the fine amount has also been paid.

8. Mr.R.Anandaraj, learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that the sentence imposed on the petitioners have been suspended by the trial court.

9. It is to be pointed out that though the petitioners have been sentenced to undergo one year and one and half years, the matter is placed before the Division Bench since the first accused was sentenced to suffer Life Imprisonment. Considering the above aspects, we are of the opinion that the petitioners are entitled for suspension of sentence during pendency of the appeal. Accordingly, these criminal miscellaneous petitions are allowed and the substantive sentence of imprisonment imposed on the petitioners alone is suspended, subject to the following conditions:

i. The petitioners are directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood-related surety, each for a like sum to the satisfaction of the Judicial Magistrate, Ambasamudram.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass book to

<https://hcservices.courts.gov.in/hcservices> identity.



iii. The petitioners shall appear before the Judicial Magistrate, Ambasamudram, at 10.30 a.m. on the first working day of every English Calendar month until further orders.

iv. On any particular date, if the petitioners are not able to appear, leave is granted to the petitioners to file an application under Section 317 Cr.P.C. and appear before the Trial Court on any other day, as determined by the Trial Court, in lieu of the day on which he would absent.

sd/-
08/01/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE III ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI, TIRUNELVELI DISTRICT.
 - 2 THE JUDICIAL MAGISTRATE, AMBASAMUDRAM.
 - 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
 - 4 THE INSPECTOR OF POLICE
KADAYAM POLICE STATION, TENKASI DISTRICT.
 - 5 THE INSPECTOR OF POLICE
KADAYAM POLICE STATION, TIRUNELVELI DISTRICT.
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2CC TO MR.K.PRABHU, Advocate, Sr Nos.167 & 168

ORDER IN
Crl.M.P.(MD) Nos.3 & 4 of 2021
in Crl.A.(MD) No.2 of 2021
and Crl.M.P(MD)No.36 of 2021
in Crl.A(MD)No.4 of 2021
Date :08/01/2021

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<https://hdcvcs.ecourts.gov.in/hdcvcs/1.2021/5P.9C>