



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

Wednesday, the Tenth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.298 of 2021
in
CRL A(MD)No.21 of 2021

1.VINCENT
2.CHELLAPANDI
3.LAZZERMOHAM

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
PAPANASAM POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.238/2010

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed in S.C.No.65 of 2015 dated 22.12.2020 on the file of the learned Additional District and Sessions Judge (Fast Track Court) Kumbakonam and grant bail to the Petitioners/appellants.

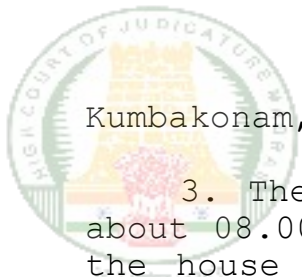
PRAYER IN CRL A(MD)No.21 of 2021:

Pleased to set aside the Judgment of conviction and sentence of the appellants for the offence alleged under section 452,326 and 506 (ii) of I.P.C. Passed in S.C.No.65/2015 dated 22.12.2020 on the file of the Learned Additional District and Sessions Judge(Fast Track Court), Kumbakonam and consequently thereby allow this Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.J.SENTHIL KUMARAI AH, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioners / appellants passed by the learned Additional District and Sessions Judge (Fast Track Court),

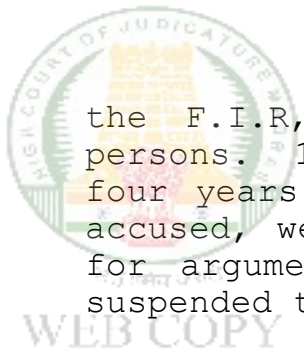


Kumbakonam, vide judgment dated 22.12.2020, in S.C.No.65 of 2015.

3. The case against the petitioners is that on 10.11.2010, at about 08.00 p.m, the petitioners and another person trespassed into the house of the defacto complainant and attacked the son of the defacto complainant, who is deaf and dumb, with Aruval and caused grievous injuries and threatened him with dire consequences and also they smashed the Television, Fan and window glass worth Rs.20,000/-. A case in Crime No.238 of 2010 was registered by the respondent police under Sections 452, 326, 506(ii) I.P.C. and Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act and the same was taken on file as S.C.No.65 of 2015 on the file of the Additional District and Sessions Judge (Fast Track Court), Kumbakonam. The Additional District and Sessions Judge (Fast Track Court), Kumbakonam, found the petitioners not guilty under Section 3(1) of Tamil Nadu Public Property (Prevention of Damage and Loss) Act and found the petitioners guilty under Sections 452, 326, 506 (ii) I.P.C. The petitioners were convicted and were sentenced to undergo two years rigorous imprisonment each and to pay a fine of Rs.2,000/- each, in default, to undergo a further period of six months simple imprisonment each under Section 452 I.P.C. The petitioners were convicted and were sentenced to undergo two years rigorous imprisonment each and to pay a fine of Rs.2,000/- each, in default, to undergo a further period of six months simple imprisonment each under Section 326 I.P.C. The petitioners were convicted and were sentenced to undergo two years rigorous imprisonment each under Section 506(ii) I.P.C.. As against the said conviction and sentence, the petitioners / A1 to A3 have preferred an Appeal in Crl.A.(MD)No.21 of 2021. Along with the Appeal, they have filed the present application for suspension of sentence pending disposal of the said Appeal.

4. On the side of the petitioners, it is stated that the alleged occurrence took place on 10.11.2010, at about 08.00 p.m., but, the complaint was lodged only on 11.11.2010, at about 09.00 p.m. and the delay was not explained by the prosecution. It is stated that four accused trespassed into the house of the victim. In the evidence of P.W.1, it is stated that the occurrence, took place near the house of the victim. Hence, the offence under Section 452 I.P.C. was not proved by the prosecution. P.W.1, who is the father of the victim, has given a statement before the Medical Officer that his son was attacked by three unknown persons, whereas, all the accused were well known to the victim. There was a civil dispute pending between them, an F.I.R. was registered against P.W.10, for attacking the second petitioner/ A2. There are contractions between the evidence of P.W.1 and that of the Doctor. X-ray report was not marked and grievous cut injury was not proved by the prosecution and the punishment under Section 326 I.P.C. is not correct. P.W.10 did not depose anything regarding the criminal intimidation and the offence under Section 506(ii) was not proved by the prosecution.

<https://hccservicescourts.gov.in/home/06/> The Medical Officer has deposed that five persons are mentioned in



the F.I.R, whereas, the case was registered only against four persons. 161 statements were submitted before the Court, only after four years. The house hold articles, stated to be damaged by the accused, were not seized by the police. There are much more points for arguments in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

5. On the side of the respondent, it is stated that the victim is a deaf and dumb person and that there were grievous injuries and that the injuries are proved by the evidence of P.W.7 and by the Accident Register copy Ex.P.4. P.W.9 has given wound certificate that the injuries are grievous in nature. The evidence of P.W.10 corroborated the evidences of P.W.7 and P.W.9. The prosecution has examined 12 witnesses and marked 12 documents and 2 material objects and the prosecution has proved the case beyond all reasonable doubts and prayed for the dismissal of the petition.

6. It is seen that there are some more points for consideration in the main appeal. The petitioner was granted suspension of sentence by the trial Court. The petitioner was enjoying the bail through out the trial. The Criminal Appeal is not likely to be taken up for final hearing in the near future. Hence, this Court inclined to grant suspension of sentence till the disposal of the Appeal, on their executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each with two sureties, each of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge (Fast Track Court), Kumbakonam, and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression along with their signature in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Voter I.D to ensure their identity;

(ii) the petitioners shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the Appeal or until further orders.

sd/-
10/02/2021

/ TRUE COPY /

/ /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



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK COURT), KUMBAKONAM.

2. THE INSPECTOR OF POLICE,
PAPANASAM POLICE STATION,
THANJAVUR DISTRICT.

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

+1. C.C. to Mr.J.SENTHIL KUMARAI AH Advocate SR.No.4775

ORDER
IN
CRL MP (MD) No.298 of 2021
in
CRL A (MD) No.21 of 2021
Date : 10/02/2021

LS
TK/VR/SAR.4/12.02.2021/4P/5C