



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Twenty Ninth day of March Two Thousand and Twenty One

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PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM

and

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) Nos.636 and 638 of 2021

in

CRL A(MD)No.44 of 2021

K.GOWRI

... PETITIONER/APPELLANT

IN CRL MP(MD)No.636 of 2021

IN CRL A(MD)No.44 of 2021

KAMARAJ

... PETITIONER/APPELLANT

IN CRL MP(MD)No.638 of 2021

IN CRL A(MD)No.44 of 2021

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PATTEESWARAM POLICE STATION,
KUMBAKONAM,
THANJAVUR DISTRICT.
CRIME NO.194/2013

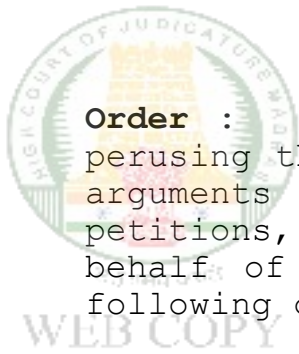
... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

COMMON PRAYER IN CRL MP(MD)Nos.636 and 638 of 2021 in CRL A(MD)NO.44 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 sentence imposed in S.C.No.96/2014 dated on 05.11.2020 on the file of the District and Sessions Judge (Fast Track Court), Kumbakonam pending disposal of Criminal Appeal.

PRAYER IN CRL A(MD)NO.44 of 2021:

Pleased to call for the records and set aside the conviction and sentence imposed by the trial court by its judgment passed in S.C.No.96 of 2014 dated 05.11.2020 on the file of the Additonal District and Sessions Judge, (Fast Track Court), Kumbakonam and acquit the appellants.



Order : These petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.A.ARUNPRASAD, Advocate for the petitioner in both petitions, and of Mr.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent in both petitions, the court made the following order:-

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

The petitioners are A3 and A4 in Sessions Case No.96 of 2014, on the file of the Additional District and Sessions Court (Fast Track Court), Kumbakonam. Both are husband and wife. A1 and A2 are their sons. The accused were charged for the offence punishable under Sections 120(B), 341, 506(2), 294(b) and 302 r/w 34 I.P.C. for causing death of one Veeramani on 02.10.2013. The Trial Court found them guilty under Sections 120(B), 341, 506(ii) and 302 r/w 34 I.P.C. and sentenced them to undergo including life imprisonment and imposed fine. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, the petitioners / A3 and A4 seek suspension of sentence.

2. The case of the prosecution is that the accused and the deceased are permanent residents of Nathankovil in Kumbakonam. A3 and A4 also blessed with another son, namely, Deenendran. It is alleged that the deceased and the said Deenendran had gone to Kerala for employment, where the said Deenendran died in a road accident. The accused were of the opinion that the deceased Veeramani is responsible for the death of Deenendran. So, the accused conspired together on 01.10.2013 to eliminate the deceased Veeramani and in pursuance thereof, on 02.10.2013, at 05.30 p.m., the accused waylaid the deceased. A1 and A2 armed with knife and aruval respectively caused fatal injuries on the deceased. The further case of the prosecution is that though A3 was having knife, but he did not inflict to anyone, however threatened the witnesses and A3 and A4 also instigated A1 and A2 to cause death.

3. To prove the charges against the accused, the prosecution examined P.Ws.1 to 9 as eyewitnesses to the incident. Though P.Ws.4 to 6 have turned hostile, the other witnesses supported the case of the prosecution and on the basis of their testimony, the Trial Court convicted the accused and sentenced them as stated above.

4. Mr.A.Arunprasad, learned counsel for the petitioners, would argue that the accused are innocents and they have been falsely roped in this case. It is also contended that there are material contradictions in the evidence of prosecution witnesses and further even as per the testimony of the eyewitnesses, A3 and A4 / petitioners herein were presented in the scene of occurrence, but they did not cause any injury. On the other hand, they were alleged to have threatened the witnesses and instigated A1 and A2 to murder



the deceased. The learned counsel would further submit that considering the overt acts attributed against the petitioners herein, they can be granted bail by suspending the sentence imposed on them by the Trial Court.

5. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, vehemently opposed the bail application contending that the prosecution has categorically proved the motive for commission of the offence and the overt acts of the accused. It is the submission of the learned Additional Public Prosecutor that only at the instigation of A3 and A4, this occurrence had taken place and therefore, they are not entitled for any indulgence of this Court.

6. Heard the rival submissions and perused the materials available on record.

7. In the matter on hand, it is not in dispute that A1 and A2 are the sons of A3 and A4 / petitioners herein. According to the witnesses, the petitioners have instigated A1 and A2 to cause death of the deceased Veeramani. Considering the overt acts attributed against the petitioners and the fact that they are in incarceration since November, 2020 and the appeal is not likely to be taken up for hearing in the near future, we are of the opinion that the petitioners are entitled for suspension of sentence.

8. Accordingly, the criminal miscellaneous petitions are allowed and the substantive sentence of imprisonment imposed on the petitioners / A3 and A4 is suspended, subject to the following conditions:

i. The petitioners are directed to be enlarged on bail on each of them executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Kumbakonam.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioners shall appear before the learned Judicial Magistrate No.II, Kumbakonam, 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 them to file an application under Section 317 Cr.P.C. and



appear before the Committal Court on any other day,
as determined by the said Court, in lieu of the day
on which they would absent.

sd/-
29/03/2021

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WEB 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 concerned

TO

- 1.THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK COURT), KUMBAKONAM.
 - 2.THE JUDICIAL MAGISTRATE No.II, KUMBAKONAM.
 - 3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.
 - 4.THE INSPECTOR OF POLICE
PATTEESWARAM POLICE STATION,
KUMBAKONAM, THANJAVUR DISTRICT.
 - 5.THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, TRICHY
 - 6.THE OFFICER INCHARGE,
SUB JAIL, THANJAVUR.
 - 7.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +2. C.C. to Mr.A.ARUNPRASAD Advocate SR.Nos.2672,2673

ORDER IN
CRL MP(MD) Nos.636 and 638
of 2021 in
CRL A(MD)No.44 of 2021
Date :29/03/2021

KRK
NR/VR/SAR.1/01.04.2021/4P/10C