



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

Tuesday, the Fifth day of October Two Thousand and Twenty One

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN
and
The Hon'ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.1272 of 2021
IN
CRL A(MD) No.4 of 2021

MURUGAN

... PETITIONER/1st APPELLANT

Vs

THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.

... RESPONDENT/RESPONDENT

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 of Imprisonment imposed by the learned 3rd Additional Sessions Judge, Tirunelveli in SC.No.27 of 2014 dt.15.12.2020 and enlarge the petitioner/accused no.1 on Bail, pending disposal of above Criminal Appeal.

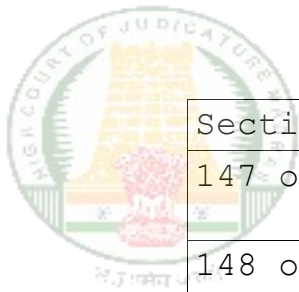
Prayer in CRL A(MD) No.4/2021 :

Pleased 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 of 2014 and acquit the Appellants.

ORDER : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KARUPPASAMY PANDIYAN G, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by V.BHARATHIDASAN,J.)

Totally, there are nine accused in S.C.No.27 of 2014 on the file of the learned III-Additional Sessions Judge, Tirunelveli. The petitioner is the first accused and he was convicted and sentenced by judgment dated 15.12.2020 by the learned III-Additional Sessions Judge, Tirunelveli as under:-



Section	Sentence
147 of IPC	Convicted and sentenced to undergo Simple Imprisonment for a period of one year
148 of IPC	Convicted and sentenced to undergo Rigorous Imprisonment for a period of one year
302 of IPC	Convicted and sentenced to undergo Rigorous Imprisonment for life and to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for a period of one month

The sentences are ordered to be run concurrently. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

2. The case of the prosecution is that, the deceased Chandrasekar @ Panju, the petitioner/A1 and other accused were residing in same village. Prior to the date of occurrence, there was a temple festival in the village, in which a wordy quarrel arose between the parties. Due to this motive, on 25.07.2011, while the deceased, P.W.1 and P.W.2 were standing in front of one Velmurugan's house, all the accused formed unlawful assembly with the common intention to murder the deceased. Thereafter, the petitioner/A1 stabbed the deceased with knife in the back side of the neck and caused death. Based on the complaint given by P.W.1, case was registered. The trial court convicted all the accused.

3. Mr.G.Karuppasamy Pandiyan, learned counsel for the petitioner/A1 would contend that originally, the First Information Report was registered only against the accused 1 to 3 and other accused have been falsely implicated. According to him, even as per the evidence, there was wordy altercation between the parties and thereafter, quarrel arose and due to sudden provocation, the accused is said to have attacked the deceased and caused a single stab on the back side of the neck. The learned counsel would further submit that co-accused in this case were granted suspension of sentence and the petitioner/A1 is undergoing incarceration for nearly one year. It is his further submission that the petitioner has no bad antecedents. He therefore prays for suspension of sentence.

4. Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State opposing this petition would submit that all the accused and the deceased were residing in the same village. Earlier, there was a wordy quarrel during the temple festival, due to that motive, the appellant along with other accused formed an unlawful assembly and attacked the deceased with knife with an intention to cause his death. The petitioner/ A1 has only committed the major offence under Section 302 IPC and other accused have been implicated for minor offences for lesser sentence and therefore, the petitioner/A1 could not have been considered on par with the other



accused. Considering the gravity of offences, suspension of sentence need not be granted to the petitioner/A1.

5. We have heard the learned counsel for the petitioner/A1 and the learned Additional Public Prosecutor and perused the materials available on records.

6. Considering the rival submissions and on perusing the materials on records, it is seen that all the accused and the deceased belong to the same Village and prior to the date of occurrence, there was wordy altercation. On the next day once again there was a quarrel, due to sudden provocation, the petitioner/A1 attacked the deceased with knife in the back side of the neck. The petitioner/A1 is undergoing incarceration for one year and he has no bad antecedents and substantial sentence of the co-accused was suspended.

7. Considering all the above aspects, we are inclined to grant suspension of sentence. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like-sum to the satisfaction of the Judicial Magistrate, Ambasamudram.

ii. The petitioner shall appear before the trial Court at 10.30 a.m., on the first working day of every English calendar month until further orders.

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

sd/-
05/10/2021

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

WEB COPY

1. THE III ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI.
2. THE JUDICIAL MAGISTRATE,
AMBASAMUDRAM.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
5. THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.KARUPPASAMY PANDIYAN G Advocate SR.No.6971.

ORDER IN
CRL MP(MD) No.1272 of 2021
IN
CRL A(MD) No.4 of 2021
Date :05/10/2021

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USK/JM/SAR-II/(06.10.2021) 4P-8C