



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

Monday, the Nineteenth day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) No.1185 of 2021
in
CRL A(MD) No.74 of 2021

MICHAEL @ MUNIYANDICHAMY

... PETITIONER/
APPELLANT/ACCUSED NO.14

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.124/2010

... COMPLAINANT/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 Principal District Sessions Court Sivagangai Distirct at Sivagangai in S.C No. 105/2012 by the judgment dated on 27.02.2020 and to enlarge the Appellant/Petitioner on bail, Pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD) No.74 of 2021:

To call for the records and set aside the order of conviction and sentence passed in S.C.No.105 of 2012 dated on 27.02.2020 on the file of the Principal Sessions Judge, Sivagangai Distirct at Sivagangai and allow this appeal and Acquit the appellant/Accused from the charges leveled against the petitioner.

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.BALAMURUGANANTHAM.R, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by B.PUGALENDHI, J.]

The petitioner is the 14th accused in S.C.No.105 of 2012 on the file of the Principal Sessions Court, Sivagangai. The petitioner along with fifteen other accused were tried by the learned Principal

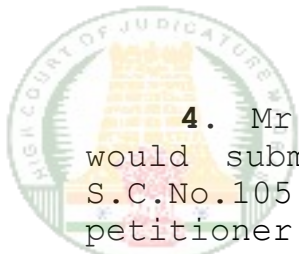


Sessions Judge, Sivagangai and the trial Court, in conclusion of the trial, found them guilty. The petitioner / A14 was found guilty, convicted and sentenced as follows:

Section of Law	Sentence of imprisonment
148 I.P.C.	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months.
302 r/w 149 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.2,000/-, in default to undergo rigorous imprisonment for three (3) months.
326 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months, for each count.
324 r/w 149 I.P.C. (2 counts)	To undergo rigorous imprisonment for three (3) years and to pay a fine of Rs.1,000/-, in default to undergo rigorous imprisonment for three (3) months, for each count.

2. Challenging the conviction and sentence imposed by the learned Sessions Judge, the petitioner/A14 has filed the above criminal appeal and during the pendency of the criminal appeal, the petitioner has filed the present criminal miscellaneous petition for suspension of sentence.

3. The case of the prosecution is that it is an usual practice of the people from Mudukulathur and Kadaladi to bring their goats and make them to stay in the agricultural fields of Kachanatham Village in Sivagangai District. In regard to the stay of goats, there was a dispute between the deceased and one Muniyandi (A4). On 30.08.2010, at 10.00 a.m. Chandrakumar (P.W.1) went to A4's house to enquire about the issue, where wordy quarrel arose between them. On the same day at 02.30 p.m. it is stated that when the witnesses Chandrakumar (P.W.1), his brother Sureshkumar (P.W.2), Pandi (P.W.3) and Mathi @ Mathiyalagan (P.W.4) were discussing the issue, the accused came with aruval and attacked the deceased with deadly weapons. In the course of the occurrence, some of the witnesses have also sustained injuries. The overt act attributed against the petitioner / A14 is that he attacked PW5 with a knife and caused a simple injury.



4. Mr.R.Balamuruganantham, learned counsel for the petitioner would submit that except this petitioner, all other accused in S.C.No.105 of 2012 have been granted suspension of sentence. The petitioner is not having any antecedents, but the prosecution witnesses in this case are accused in a triple murder case and they are now in judicial custody. The learned counsel further submit that if this Court grants suspension of sentence, the petitioner is ready to abide any condition imposed on him.

5. Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor, would admit that the overt act attributed as against this petitioner is that he caused a simple injury on a witness [PW5] and there is a corresponding injury to that effect. He also admits that the other co-accused have been enlarged on bail, by suspending the sentence pending the appeals.

6. The petitioner was tried along with 15 others before the trial Court and all the accused were found guilty, convicted and sentenced. As against the order of conviction, the accused have filed separate criminal appeals and pending the appeals, the accused were also enlarged on bail by suspending the sentence in Crl.M.P. (MD)No. 6218 of 2020, etc. The overt act attributed as against this petitioner is that he has caused an injury on a witness [PW5].

7. Considering the above facts and circumstances of the case and also the fact that this Court has suspended the substantive sentence of imprisonment imposed on the co-accused, we are inclined to suspend the substantive sentence of imprisonment imposed on the petitioner/A14, subject to the following conditions:

i. The petitioner (A14) is directed to be enlarged on bail on 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, Manamadurai.

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 petitioner (A14) shall report before the trial Court at 10.30 a.m. on the first working day of every month, until further orders.

iv. On any particular date, if the petitioner (A14) is not able to appear, leave is granted to him to file application under Section 317 Cr.P.C. and appear before the Committal Court on any other day, as determined by the Committal Court, in lieu of the day on which he would absent.



8. In fine, this criminal miscellaneous petition stands allowed.

sd/-
19/04/2021

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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 PRINCIPAL SESSIONS JUDGE,
SIVAGANGAI DISTRICT AT SIVAGANGAI.
- 2 THE JUDICIAL MAGISTRATE, MANAMADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.
- 4 THE INSPECTOR OF POLICE,
THIRUPPACHETHI POLICE STATION,
SIVAGANGAI DISTRICT.
- 5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI,
MADURAI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.1185 of 2021
in
CRL A (MD) No.74 of 2021
Date :19/04/2021

GK
JM/PN/SAR III/19.04.2021/4P/7C