



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

Monday, the Sixteenth day of August Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP(MD) NO.1474, 1521 AND 1524 OF 2021
IN
CRL.A.(MD).NOS.16, 13 AND 10 OF 2021

SELVAM

... APPELLANT/ACCUSED NO.4
IN CRL MP(MD) NO.1474 OF 2021

2 Mutheeshwaran

... APPELLANT/ACCUSED NO.1
IN CRL MP(MD) NO.1521 OF 2021

3 Alagupandi

... APPELLANT/ACCUSED NO.2
IN CRL MP(MD) NO.1524 OF 2021

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
THIRUMANGALAM TALUK POLICE STATION,
MADURAI DISTRICT.
(IN CRIME NO.39/2010)

... RESPONDENT/COMPLAINANT
IN ALL THE PETITIONS

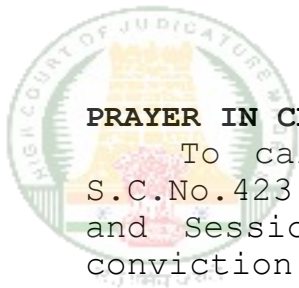
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against appellant in S.C.No.423 of 2010 on the file of the Honourable I Additional District and Sessions Judge, Madurai dated 07/12/2020 and release the appellant on bail till the disposal of the appeal

Prayer in CRL MP(MD). 1521/ 2021 :

To suspend the sentence imposed against appellant in S.C.No.423 of 2010 on the file of the Honble I Additional District and Sessions Judge, Madurai dated 07.12.2020 and release the appellant on bail till the disposal of the appeal.

Prayer in CRL MP(MD). 1524/ 2021 :

To suspend the sentence imposed against appellant in S.C.No.423 of 2010 on the file of the Honble I Additional District and Sessions Judge, Madurai dated 07.12.2020 and release the appellant on bail till the disposal of the appeal.



PRAYER IN CRL A(MD) No.16 of 2021:

To call for the entire records connected to the judgment in S.C.No.423 of 2010 on the file of the Hon'ble I Additional District and Sessions Judge, Madurai dated 07.12.2020 and set aside the conviction and sentence imposed against the appellant.

PRAYER IN CRL A(MD) No.13 of 2021:

To call for the entire records connected to the judgment in S.C.No.423 of 2010 on the file of the Hon'ble I Additional District and Sessions Judge, Madurai dated 07.12.2020 and set aside the conviction and sentence imposed against the appellant.

PRAYER IN CRL A(MD) No.10 of 2021:

To call for the entire records connected to the judgment in S.C.No.423 of 2010 on the file of the Hon'ble I Additional District and Sessions Judge, Madurai dated 07.12.2020 and set aside the conviction and sentence imposed against the appellant.

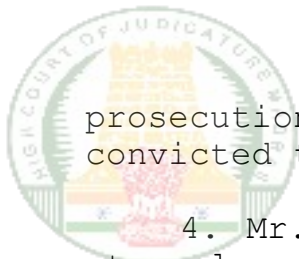
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ALAGUMANI, Advocate for the petitioner in all the Petitions and of MR.S.RAVI, Standing Counsel on behalf of the Respondent in all the Petitions, the court made the following order:-

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

Totally there are six accused in S.C.No.423 of 2010, on the file of the learned I Additional District and Sessions Judge, Madurai. The petitioners/appellants are arrayed as A-1 and A-2 and A-4 and they were found guilty for the offence under Section 302 I.P.C. The trial Court sentenced them to undergo life imprisonment for the offence under Section 302 IPC., and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment and acquitted A-5 and A-6. Challenging the above conviction and sentence, the present appeals have been filed. Pending appeal, they seek suspension of sentence.

2. According to the prosecution, in a wordy quarrel between the petitioners' family and the deceased family, who are neighbours, the occurrence had taken place. According to the prosecution, A-1 attacked the deceased with sickle, A-2 and A-4 also attacked the deceased with stick and caused his death.

3. The learned counsel appearing for the petitioners would submit that the accused and the deceased are neighbours. There was a wordy quarrel between them, in which, A3 and A6 also seriously injured. To prove the same, they have also examined the Doctors, who treated A-3 and A-6. The trial Court, without considering the fact that there is no proper explanation on the side of the



prosecution in respect of the injury sustained by A-3 and A-6, convicted the accused and hence, seek for suspension of sentence.

4. Mr.S.Ravi, learned Standing Counsel appearing for the State strongly opposed the bail application stating that the accused and the deceased are neighbours and there was a wordy quarrel. At the time of occurrence, all the accused A1 to A4 attacked the deceased and caused his death. The injury sustained by the accused is minor in nature and hence, non explanation about the injuries is not fatal to prosecution. There are four eyewitnesses in this case. Considering those witnesses, the trial Court has rightly convicted A1 to A4 and acquitted A5 and A6 and there is no error in the Judgment.

5. We have considered the rival submissions made and perused the materials available on records.

6. Admittedly, the accused and the deceased are neighbours and on the date of occurrence, there was a wordy quarrel between them. On perusal of the records, it is seen that in the same occurrence, A3 and A6 were also suffered serious injuries and the Doctor, who treated them was examined as D.W.4 and the Accident Registers were also marked as Ex.D2. The injury suffered by A-3 and A-6 was not explained by the prosecution, it creates a serious doubt about the prosecution case. Considering those aspects, this Court had already granted suspension of the sentence in respect of A-3. In such circumstances, we are of the opinion that the petitioners have make out a prima facie case for grant of suspension of sentence.

7. Considering 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 petitioners alone 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 a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like-sum to the satisfaction of the I Additional District and Sessions Judge, Madurai.

ii. The petitioners 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 petitioners are not able to appear, leave is granted to the petitioners 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 they would absent.

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sd/-
16/08/2021

/ 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 concerned.

TO

- 1 THE I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
THIRUMANGALAM TALUK POLICE STATION,
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL MP(MD) NO.1474, 1521 AND 1524 OF 2021
IN

CRL.A.(MD).NOS.16, 13 AND 10 OF 2021
Date :16/08/2021

PM
MK/VR/SAR.IV/16.08.2021/3P/5C