



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

Tuesday, the Tenth 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.2226 of 2021
IN
Crl.A.(MD) .No.135 of 2021

THANGAPANDI

... APPELLANT/ ACCUSED NO.3

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
THIRUMANGALAM TALUK POLICE STATION,
MADURAI DISTRICT.
CRIME NO.39 OF 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 against appellant in SC.No.423 of 2010 on the file of the Hon'ble I Additional District and Sessions Judge, Madurai dated 07.12.2020 and release the appellant on bail till the disposal of the appeal.

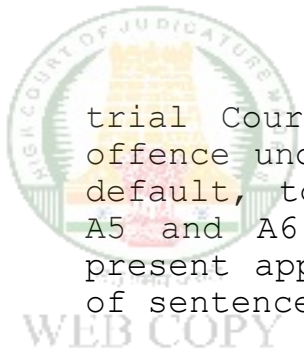
PRAYER IN Crl.A. (MD) .No.135 of 2021:

To call for the entire records connected to the judgment in SC.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 and of Mr.S.RAVI, Standing Counsel for the Government of Tamil Nadu on behalf of the Respondent, 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 petitioner/appellant is arrayed as A3 and he was found guilty for the offence under Section 302 I.P.C., (2 counts). The



trial Court sentenced him 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 A5 and A6. Challenging the above 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 on 14.03.2010, at about 9.00 p.m., A5 in this case washed the cloth of her grandchildren and poured the water in the street and the water stagnated in front of the house of the deceased. With regard to that, there was a wordy quarrel between P.W.3/wife of the deceased and A6. During the quarrel, all the accused came with weapons, A3 caught hold of the deceased, A1 attacked him with aruval and A2 and A4 also attacked the deceased with stick and caused his death.

3. The learned counsel appearing for the petitioner 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, treated A3 and A6. 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 A3 and A6, convicted the accused. That apart, even as per the prosecution, A1 in this case attacked the deceased with aruval and caused his death and the petitioner only caught-hold the deceased. However, the trial Court had erroneously convicted the appellant also under Section 302 IPC.

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 of 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, in which, A6 was admitted in the hospital. D.W.4-Doctor working in Government Hospital, Thirumangalam, speaks about injuries on A3 and D.W.5, Prison Doctor, examined A6, thereafter, A6 was admitted in Government Hospital at Trichy and taken treatment, but the



by A3 and A6. That apart, the evidence of P.Ws.1 to 4 clearly shows that the petitioner caught-hold the deceased, only A1 said to have attacked the deceased and caused his death. Considering all those circumstances, we find that, a prima facie case has been made out for grant of suspension of sentence.

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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 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 I Additional District and Sessions Judge, Madurai.

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/-

10/08/2021

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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,

<https://hcserv.madbar.gov.in/csr/res>



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

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MPK
MS/VR/SAR-2/12.08.2021/4P.5C

ORDER
IN
CRL MP(MD) No.2226 of 2021 IN
Crl.A.(MD).No.135 of 2021
Date :10/08/2021