



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

Tuesday, the Eighth day of June Two Thousand and Twenty One

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD) Nos.2501 & 2503 of 2021
IN
CRL.A.(MD) .No.151 of 2021

KALI @ KALIDOSS

... PETITIONER/1st APPELLANT/
ACCUSED NO.2
IN CRL MP (MD) No.2501 of 2021

MARIAPPAN @ MARIRAJ

... PETITIONER/APPELLANT/
ACCUSED NO.3
IN CRL MP (MD) No.2503 of 2021

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TENKASI DISTRICT.
CRIME NO.226/2011

... RESPONDENT/COMPLAINANT
IN BOTH THE PETITIONS

Common Prayer in CRL.M.P.(MD) Nos.2501 and 2503 of 2021:

Petitions are filed praying that in the circumstances stated therein and in the petitions filed therewith the High Court may be pleased to suspend the sentence of Imprisonment imposed on the petitioners/appellants by the learned III Additional Sessions Judge, Tirunelveli in S.C.No.27 of 2014 dated 15/12/2020 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL.A.(MD) .No.151 of 2021:

To admit the appeal preferred by this Appellants/Accused No.2 & 3 and call for the records from the Lower Court in S.C.No.27 of 2014 on the file of the III Additional Sessions Judge, Tirunelveli, Tirunelveli District and set aside the conviction and sentence dated 15.12.2020, imposed on the Appellants.

<https://hcservices.ecourts.gov.in/hcservices/>



Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of MR.KARTHIKEYAVENKITACHALAPATHY.M, Advocate for the petitioner in both the petitions and of MR.S.RAVI, Standing Counsel for Government on behalf of the Respondent in both the petitions, the court made the following order:-

C O M M O N O R D E R

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

Totally nine accused were tried by the III Additional Sessions Judge, Tirunelveli in S.C.No.27 of 2014 for the charges punishable under Sections 147, 148, 294(b), 342, 323, 302 r/w 149, 307 and 307 r/w 149 of IPC for causing death of one Chandrasekar @ Panju on 25.07.2011.

2. The trial Court, on appreciation of evidence adduced by the prosecution, found A1 guilty for the charges under Section 302 of IPC and convicted and sentenced him to undergo Life Imprisonment and imposed a fine of Rs.1,000/- in default to undergo one month simple imprisonment. The other accused A2 to A9 were convicted and sentenced to undergo one year simple imprisonment under Section 147 of IPC, A1 and A2 were convicted and sentenced to undergo one year Rigorous Imprisonment under Section 148 of IPC, A3, A7, A8 and A9 were convicted and sentenced to undergo six months simple imprisonment under Section 323 of IPC, A2 was convicted and sentenced to undergo five years rigorous imprisonment for an offence under Section 307 of IPC. Aggrieved over the conviction and sentence, A2 and A3 preferred the above appeal and in this applications, they seek suspension of sentence.

3. It is the case of the prosecution that on 24.07.2011 at 07.00 p.m., there was a special Pooja for rain at Mandhiyoor Mupidathiamman Temple. The accused Nos.1 to 7 and the deceased party belonged to Mandhiyoor village, accused Nos.8 & 9 are native of Ilanchi and Alwarkuruchi respectively. It is the further case of the prosecution that in the temple festival, a dance programme was conducted. Since all the accused were standing in the middle of the road a quarrel arose between the accused and the deceased and the matter was compromised at the intervention of one Anbalagan and Devendran. Annoyed over the incident, on the next day i.e., on 25.07.2011 at 03.00 p.m., when the deceased along with Mariappan and Muthukumar were standing in front of one Velmurugan's house, A1 with knife, A2 with aruval and A3 with stick came there and other accused were also joined with them, thereafter, the accused with intention to riot abused the deceased with filthy language and A1 attacked the deceased with knife; A2 and A3 assaulted P.Ws.2 & 3; A4 said to have instigated the other accused to attack P.W.2; A7 to A9 attacked P.Ws.1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 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1926, 1927, 1928, 1929, 1930, 1931, 1932, 1933, 1934, 1935, 1936, 1937, 1938, 1939, 1940, 1941, 1942, 1943, 1944, 1945, 1946, 1947, 1948, 1949, 1950, 1951, 1952, 1953, 1954, 1955, 1956, 1957, 1958, 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, 1968, 1969, 1970, 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074



4. It is submitted by the learned counsel for the petitioners Mr.M.Karthikeyavenkitachalapathy that the petitioners herein have been falsely roped in the criminal case for ulterior motive. Even as per the evidence of the prosecution witnesses, they did not cause any injury on the deceased, but they assaulted only the witness and hence, they were convicted for the lesser offence. The second accused is in judicial custody for more than six months and the sentence of third accused was already suspended by the trial Court. Since arguable points are involved in this case, the sentence imposed on the petitioners may be suspended.

5.The learned Standing Counsel appearing for the State Mr.S.Ravi would argue that the prosecution has succeed in the charge against the accused. There are injured eyewitnesses to the incident, hence, they are not entitled for suspension of sentence.

6.In the matter on hand, it is not in dispute that the petitioner in Crl.M.P(MD)No.2501 of 2021, who was arrayed as A2, was sentenced to undergo 7 years R.I and the petitioner in Cr.M.P(MD) No.2503 of 2021, who was arrayed as A3, was sentenced to undergo one year imprisonment for the offence of causing simple injury and 6 months simple imprisonment for the offence under Section 147 IPC and the sentence was also suspended by the Trial Court. They were acquitted from the charge under Section 302 r/w 149 IPC. The other accused, who were convicted for lessor offence, were released on bail.

7.Considering the above aspects, we are of the opinion that the petitioners are entitled for suspension of sentence during the pendency of the appeal. Accordingly, these criminal miscellaneous petitions are 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 executing a bond for Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood-related surety, each for a like sum to the satisfaction of the Judicial Magistrate, Ambasamudram.

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

iii. The petitioners shall appear before the Judicial Magistrate, Ambasamudram, 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 the petitioners to



before the Trial Court on any other day, as determined by the Trial Court, in lieu of the day on which he would absent.

sd/-
08/06/2021

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

ORDER
IN
CRL.M.P.(MD) Nos.2501
and 2503 of 2021
IN
CRL.A.(MD).No.151 of 2021
Date :08/06/2021

AKV
JM/JC/SAR I/14.06.2021/4P/7C

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