



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

Monday, the Ninth 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.3901 of 2021
in
Crl.A.(MD).No.51 of 2020

CHINNADURAI

... PETITIONER/ APPELLANT/
ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
UDAYALIPATTI POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO.82 OF 2016.

... 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 Learned Mahila Court, Pudukkottai District at Pudukkottai in S.C.No.96 of 2017 by the Judgment dated 13.12.2019 and to enlarge the Appellant/petitioner on bail, pending disposal of the above said Criminal Appeal.

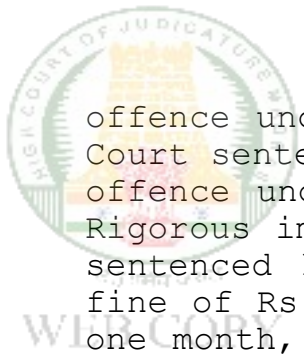
Prayer in Crl.A.(MD).No.51 of 2020:

To set aside the judgment and Conviction dated 13.12.2019 by the Session Judge(FAC) Mahila Court, Pudukkottai in S.C.No.96 of 2017 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 Mr.T.KUMAR, Advocate for the petitioner and of Mr.S.RAVI, Standing Counsel for Government on behalf of the Respondent, the court made the following order:-

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

Totally there are four accused in S.C.No.96 of 2017 on the file of the Mahila Court, Pudukkottai, Pudukkottai District. The petitioner is the first accused and he was found guilty for the



offence under Sections 341, 324(1 count) and 302 I.P.C. The trial Court sentenced him to undergo one month simple imprisonment for the offence under Section 341 I.P.C, sentenced him to undergo one year Rigorous imprisonment for the offence under Section 324 I.P.C., and sentenced him to undergo rigorous life imprisonment and to pay a fine of Rs.1000/- and in default to undergo simple imprisonment for one month, for the offence under Section 302 I.P.C. 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.

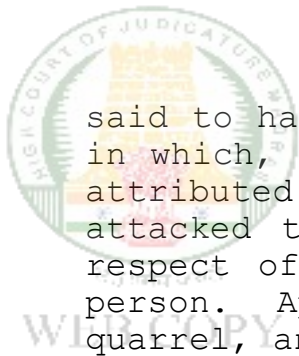
2. The case of the prosecution is that, there was previous enmity between the petitioner/A-1 and the deceased by name Karthikeyan. On 29.10.2016 at about 3.00 p.m., there was a wordy quarrel between the accused and the deceased near a wine shop and that was pacified by the elders present there. Due to that motive, at about 04.00 p.m., all the four accused waylaid the deceased and attacked him indiscriminately and caused serious injuries and as a result, the deceased succumbed to the injuries and the trial Court convicted all the four accused.

3. The learned counsel for the petitioner would submit that the occurrence was taken place in a wordy quarrel. The deceased is a notorious rowdy element and on the date of occurrence, there was a wordy quarrel between the accused and the deceased, in which, out of sudden provocation, all the accused said to have attacked the deceased and caused injuries to three other witnesses also. He would further submit that in respect of co-accused, namely A2 to A4, substantive sentence was suspended by this Court and the petitioner is also similarly placed person and seeks for suspension of sentence.

4. Mr.S.Ravi, learned Standing counsel appearing for the State strongly opposing the bail application would submit that there are three injured witnesses namely P.Ws.1 to 3 and due to previous enmity between the parties, all the accused with an intention, attacked the deceased and the injured witnesses P.Ws.1 to 3 and as a result, the deceased succumbed to the injuries and there is no reason to disbelieve the evidence of the eyewitnesses and the trial the trial Court has rightly convicted the petitioner/A-1. Insofar as the petitioner/A-1 is concerned, he is having serious overt act and he only attacked the deceased with aruval on the head and he stands in a different footing and hence, he is not entitled for bail.

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

6. From the perusal of the records, it is seen that there was a wordy quarrel between the parties near the wine shop and in which, due to sudden provocation, the petitioner along with other accused



said to have attacked the deceased and the other injured witnesses, in which, the deceased succumbed to the injuries. Similar overt act attributed to all the four accused, all of them said to have attacked them. This Court had already suspended the sentence in respect of A-2 to A-4 and the petitioner is also similarly placed person. Apart from that, the occurrence had taken place in a wordy quarrel, and in sudden provocation, petitioner said to have attacked the deceased. Therefore, We find that, a *prima facie* case has been made out 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 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 Mahila Court, Pudukkottai District.

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/-
09/08/2021

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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 JUDGE,
MAHILA COURT,
PUDUKKOTTAI DISTRICT.
- 2 THE INSPECTOR OF POLICE,
UDAYALIPATTI POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 3 THE SUPERINTENDENT,CENTRAL PRISON,
TRICHY, TRICHY DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP(MD) No.3901 of 2021 in

CrI.A.(MD).No.51 of 2020

Date :09/08/2021

pm

MS/PN/SAR-3/10.08.2021/4P.5C