



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Thirteenth day of August Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

and

The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP(MD) No.4098 of 2021

IN

CRL A(MD)No.341 of 2019

S.MANIKANDAN

... PETITIONER/APPELLANT-I

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE

RAJAKKAMANGALAM POLICE STATION,

NAGERCOIL, KANYAKUMARI DISTRICT.

... RESPONDENT/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 imposed by the Learned Additional District and Sessions Judge(Fast Track),Nagercoil,Kanyakumari District in SC.No.53 of 2012 dated 11.04.2019 and to enlarge the Appellant on bail pending disposal of the above said Criminal Appeal.

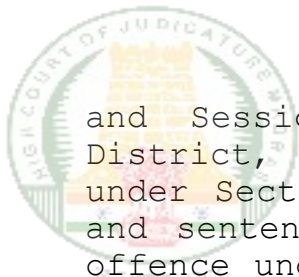
PRAYER IN CRL A(MD)No.341 of 2019:

To allow this appeal and Set Aside the impugned Judgment of Conviction And Sentence Passed by Learned Additional District & Sessions Judge(Fast Track)Nagercoil, Kanyakumari District dated 11.04.2019 in S.C.No.53 of 2012.

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.NIRANJAN.S.KUMAR, Advocate for the petitioner and of Mr.S.RAVI, Standing Counsel on behalf of the Respondent the court made the following order:-

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

The petitioner, who has been arrayed as accused No.1 in Sessions Case No.53 of 2012, on the file of the Additional District
<https://hcservices.ecourts.gov.in/hcservices/>



and Sessions Judge (Fast Track Court), Nagercoil, Kanyakumari District, was tried along with the other accused for the offences under Sections 341, 294(b) and 307 of I.P.C., and he was convicted and sentenced to undergo six months rigorous imprisonment for the offence under Section 341 of I.P.C., and to pay a fine of Rs.500/-, in default to undergo one month simple imprisonment and he was convicted and sentenced to undergo life imprisonment for the offence under Section 302 of I.P.C., and to pay a fine of Rs.5,000/-, in default to undergo one year simple imprisonment and acquitted the petitioner from the charge under Section 294(b) of I.P.C., Challenging the conviction and sentence, he has preferred the appeal. Pending appeal, he seeks suspension of sentence.

2. The case of the prosecution is that both the deceased Selvakumar and the accused are belong to Thamathukonam Village and there was a wordy quarrel between the parties in Ammankovil festival, in the year 2010, in which the deceased Selvakumar was teased by the father of the accused Nos.1 to 3. Due to the same, two days later, the deceased Selvakumar assaulted the father of the accused Nos.1 to 3 and the father-in-law of the fourth accused and also caused damage to their motorcycle. Hence, a complaint was lodged by Selvaraj against the deceased Selvakumar and a case in Crime No.117 of 2011 has been registered for the offences under Sections 204(b), 324, 506(2) of I.P.C., and Section 3(i) of TNPPDL Act. Due to previous enmity, on 09.06.2011, all the accused waylaid the deceased Selvakumar, A1 attacked the deceased with bill-hook on his head, A2 attacked on his left hand, right thigh and right knee and the third accused attacked the deceased on his left knee, left fore-arm and left hand thumb and the fourth accused cut the left hand, left elbow and left leg and caused grievous injuries and thereby, caused his death. The trial Court, after considering the materials, convicted the petitioner and sentenced to undergo imprisonment as stated supra.

3. Mr.Niranjan S.Kumar, learned counsel appearing for the petitioner would submit that the occurrence has taken place due to wordy quarrel and out of sudden provocation, the accused said to have attacked the deceased. The trial Court disbelieving the evidence of all the eyewitnesses, acquitted the fourth accused and wrongly convicted the petitioner. That apart, accused Nos.2 and 3 were also granted suspension of sentence. He would further submit that pending trial, the petitioner was on bail and he has no bad antecedents and he is in jail for more than three years.

4. Per contra, Mr.S.Ravi, learned Standing counsel appearing for the respondent would argue that this is a predetermined murder, since the deceased Selvakumar earlier attacked the father of the accused, they are conspired together and attacked the deceased and caused his death. He would further submit that A2 to A4 were caused injuries on the non-vital parts of the deceased and hence, they were granted bail and the main head injury was caused only by this petitioner/A1. In the above circumstances, considering the gravity of the offence, the suspension of sentence need not be granted to



5. Heard the rival submissions and perused the materials available on records.

6. In this case, totally there are four eye witnesses. Even though all the eye witnesses stated that all the four accused have attacked the deceased and caused injuries, the trial Court disbelieving their evidence in respect of A4 and acquitted him. From the evidence of P.W.2, it is seen that A1 and A2 attacked the deceased with bill-hook on the head of the deceased. As per the medical evidence, the deceased was succumbed to death due to head injuries sustained by him. This Court has granted suspension of sentence to the similarly placed co-accused. Pending trial, he was on bail, and there is no bad antecedents against the petitioner.

7. Considering the above facts, we are of the opinion that the petitioner has made out a *prima facie* case for grant of suspension of sentence, during the pendency of the appeal. 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 learned Additional District and Sessions Judge (Fast Track Court), Nagercoil, Kanyakumari

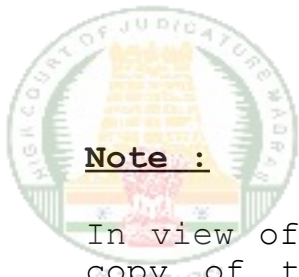
ii. The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders.

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

sd/-
13/08/2021

/ 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 ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK COURT) NAGERCOIL, KANYAKUMARI.
- 2.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI.
- 3.THE INSPECTOR OF POLICE
RAJAKKAMANGALAM POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.4098 of 2021
IN

CRL A(MD)No.341 of 2019
Date :13/08/2021

SA/PN/SAR.1/17.08.2021/4P/5C