



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

Monday, the Twenty Third day of August Two Thousand and Twenty One
PRESENT

WEB COPY

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

CRL MP(MD) No.5132 of 2021
IN
CRL A(MD)No.313 of 2021

ANTHONYRAJ ... PETITIONER/APPELLANT/ACCUSED-2
Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KOPPAMPATTI POLICE STATION,
THOOTHUKUDI DISTRICT
CRIME NO. 36/2017.

... RESPONDENT/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 by the Learned II Additional District and Sessions Judge, Thoothukudi in S.C No. 295 of 2018 dated 04.09.2019 and release the Petitioner on bail pending disposal of the above Criminal Appeal.

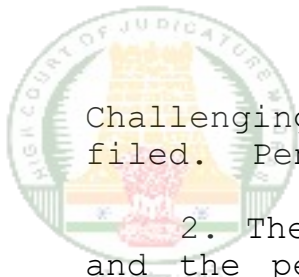
PRAYER IN CRL A(MD)No.313 of 2021:

To call for the entire records connected with the proceedings of the Judgment of conviction passed by the Learned II Additional District & Sessions Judge, Thoothukudi in S.C.No.295 of 2018 dated 04.09.2019 and set aside the same and acquit the appellant from all the charges.

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.G.BHAGAVATH SINGH, Advocate for the petitioner and of Mr.S.RAVI, Standing Counsel for State on behalf of the Respondent, the court made the following order:-

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

Totally there are five accused in S.C.No.295 of 2018, on the file of the Learned II Additional District & Sessions Judge, Thoothukudi. The petitioner / appellant is the second accused and he was found guilty for the offence under Section 302 IPC., and was sentenced to undergo life imprisonment and to pay fine of Rs.1000/-, in default, to undergo six months simple imprisonment.



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 the deceased viz., Raja and the petitioner belong to same place and there was frequent quarrel between them. In this circumstances, all the five accused conspired together to kill the deceased. Pursuant to the same, A2 called the deceased over phone, when the deceased came in a two wheeler, to the scene of occurrence, all the accused attacked the deceased with weapons and caused his death. Hence, a case was registered. The Trial Court, on appreciation of evidence, found him guilty, convicted and sentenced him, as stated above.

3. Mr.G.Bhagavath Singh, the learned counsel appearing for the petitioner / appellant submitted that there is no eye-witness to the occurrence and only based on the evidence of P.W.2, the deceased's mother, that before the occurrence, A2 called the deceased over phone, and asked to come to the place of occurrence. Apart from that, there is no evidence available to connect the accused. He would further submit that, A1, a similarly placed accused had already been granted bail by this Court.

4. Mr.S.Ravi, the learned Standing counsel appearing for the State would submit that, the petitioner and deceased belong to same place and there was a frequent quarrel between them. In order to finish the deceased, the accused conspired together, called the deceased over phone, when he came to the scene of occurrence, they attacked the deceased and caused his death. He would further submit that the petitioner / A2 already involved in yet another crime for the offence under Section 307 IPC., if released on bail, he is likely to commit similar offence in future.

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

6. There is no eyewitness to the occurrence. The only evidence available is P.W.2 / mother of the deceased, who have stated that the petitioner / A2, before the occurrence, called the deceased over phone and asked to come to the scene of occurrence. There is no other evidence available on record to show that the petitioner had attacked the deceased. Further, A1 / a similarly placed accused had already been granted bail by this Court.

7. Considering the above facts and circumstances of the case and also considering the fact that A1 had already been granted bail by this Court, 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 learned II Additional District and Sessions Judge, Thoothukudi.

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/-
23/08/2021

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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 II ADDITIONAL DISTRICT & SESSIONS JUDGE,
THOOTHUKUDI.
- 2.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 3.THE INSPECTOR OF POLICE
KOPPAMPATTI POLICE STATION,
THOOTHUKUDI DISTRICT
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1.C.C. to Mr.G.BHAGAVATH SINGH, Advocate SR.No.5623 Date:24.08.2021

ORDER IN

CRL MP(MD) No.5132 of 2021 IN
CRL A(MD)No.313 of 2021
Date :23/08/2021

SA/JM/SAR.3/24.08.2021/3P/6C

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