



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

Friday, the Thirteenth 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.4465 of 2021  
in  
CRL.A.(MD).NO.213 OF 2020

1 MANIVEL  
2 VETRIVEL

... PETITIONERS/APPELLANTS/(ACCUSED NO.2 AND 3)

Vs

THE STATE REP.BY,  
THE INSPECTOR OF POLICE,  
THOTTIYAM POLICE STATION,  
TRICHY DISTRICT.  
CRIME NO. 149 OF 2016.

... 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 on the Appellants/Accused No.2 and 3 in SC.No.160 of 2017 on the file of the 1st Additional District and Sessions Judge(PCR), Trichy, dated 28.02.2020 and enlarge them on bail pending disposal of the instant Criminal Appeal.

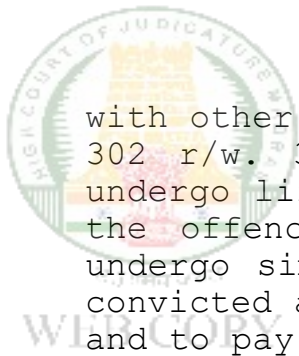
Prayer in CRL.A.(MD).NO.213 OF 2020:

To admit this appeal on file and call for the records from the Lower Court and set aside the Judgment of the Lower Court passed by the Learned First Additional District and Sessions Judge(PCR), Tiruchirappalli in Sessions Case No.160/2017 dated 28.02.2020, by allowing this appeal.

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.N.ANANTHAPADMANABHAN, Advocate for the petitioners and of MR.S.RAVI, Standing Counsel for State for the respondent, the court made the following order:-

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

The petitioners, who have been arrayed as accused Nos.2 and 3 in Sessions Case No.160 of 2017, on the file of the I Additional District and Sessions Judge (PCR), Trichy District, were tried along



with other accused for the offences under Sections 294(b), 326, 307, 302 r/w. 34 of I.P.C., and they were convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/- each for the offence under Section 302 r/w. 34 of I.P.C., in default to undergo simple imprisonment for one year and the third accused was convicted and sentenced to undergo eight years rigorous imprisonment and to pay a fine of Rs.4,000/- for the offence under Section 307 of I.P.C., in default to undergo twelve months simple imprisonment. Challenging the conviction and sentence, they have preferred the appeal. Pending appeal, they seek suspension of sentence.

2. The case of the prosecution is that the deceased Murugan is the brother of the first accused and there was a dispute between them regarding the partition of the ancestral house allotted in favour of the deceased Murugan. Due to the same, on 04.06.2016, at 6.00 p.m., a wordy quarrel arose between the parties and the accused took aruvals from their house and attacked the deceased Murugan as well as P.Ws.1 and 2, who are the sons of the deceased Murugan and caused the death of Murugan. The trial Court, after considering the materials available on record, convicted the petitioners and sentenced them as stated supra. Challenging the same, the present appeal has been filed, pending appeal, the petitioners have sought for suspension of sentence.

3. Mr.N.Ananthapadmanabhan, learned counsel appearing for the petitioners would submit that the deceased and the injured witnesses are closely related and admittedly, there was a civil dispute between the parties. Due to the same, on the date of occurrence, a wordy quarrel arose between the parties and out of sudden provocation, the petitioners said to have attacked the deceased with non-vital parts and the deceased died due to shock and hemorrhage and the petitioners have not caused the death of the deceased. That apart, all the injuries are in the non-vital parts. He would further submit that similarly placed co-accused viz., A1 was granted suspension of sentence.

4. Per contra, Mr.S.Ravi, learned Standing counsel appearing for the respondent would argue that due to civil dispute between the parties, all the three accused went to the house of the deceased and started to attack P.Ws.1 and 2, when the deceased intervened, the accused were attacked the deceased with aruval and caused five injuries. Even though the injuries are found in non-vital parts, the deceased died due to shock and hemorrhage. So far as the first accused is concerned, according to the prosecution, he attacked P.W.2 and caused some minor injuries and hence, he was granted bail and the petitioners have caused major injuries to the deceased and hence, the petitioners cannot seek parity.

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



6. In the case on hand, admittedly, there was a civil dispute between the deceased and the accused parties with regard to the ancestral properties. On the date of occurrence, there was a wordy quarrel between the parties and out of sudden provocation, the petitioners along with A1 try to attack P.Ws.1 and 2, when the deceased intervened and caused injuries to him. The postmortem report reveals that all the injuries found in the non-vital part. That apart, similarly placed co-accused /A1 was granted bail by this Court and pending trial, the petitioners were on bail and there is no bad antecedents against them.

7. Considering the above facts, we are of the opinion that the petitioners have 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 petitioners alone is suspended, subject to the following conditions:

i. The petitioners are directed to be enlarged on bail, on their 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 (PCR), Trichy.

(ii) The petitioners 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 petitioners are not able to appear, leave is granted to the petitioners 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 they would absent.

sd/-  
13/08/2021

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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



TO

1. THE 1ST ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),  
TRICHY DISTRICT.
2. THE INSPECTOR OF POLICE  
THOTTIYAM POLICE STATION, TRICHY DISTRICT.
3. THE SUPERINTENDENT,  
CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL MP (MD) No.4465 of 2021  
in  
CRL.A. (MD) .NO.213 OF 2020  
Date :13/08/2021

AKV  
MK/PN/SAR.I/17.08.2021/4P/5C