



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.4466 of 2021  
in  
Crl.A.(MD) .No.252 of 2019

ALEXPANDIAN @ PANDIAN

... PETITIONER/ APPELLANT

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE  
GUDALUR NORTH POLICE STATION,  
THENI DISTRICT.  
CRIME NO.126 OF 2016.

... RESPONDENT/ RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order of Suspension the Sentence, to suspend the petitioner's sentence, passed vide Judgment dated 06.02.2019 made in S.C.No.173 of 2016 on the file of the learned Additional District and Sessions Court(FTC),Theni pending disposal of the above Criminal Appeal.

**Prayer in Crl.A. (MD) .No.252 of 2019:**

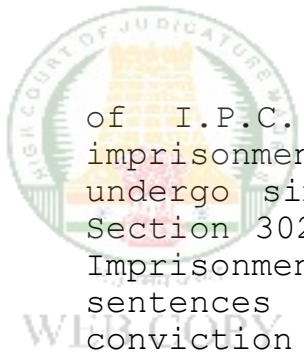
To call for the records pertaining to the judgment rendered by the Additional District and Session Judge(FTC), Theni, Theni District S.C.No.173 of 2016 vide its judgment dated 06.02.2019 and set aside the same and consequently acquit the appellant.

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.A.SIVAKUMAR, 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.**)

The petitioner is the sole accused in S.C.No.173 of 2016 on the file of the Additional District and Sessions Judge(FTC), Theni and he was found guilty for the offence under Sections 302 and 506(ii)

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of I.P.C. The trial Court sentenced him to undergo life imprisonment and to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for six months for the offence under Section 302 I.P.C., and sentenced him to undergo two years Rigorous Imprisonment for the offence under Section 506(ii) 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.

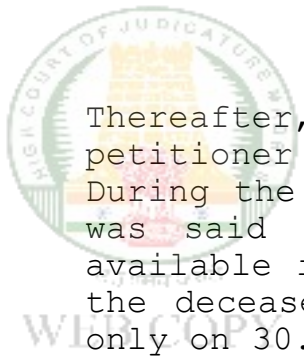
2. The case of the prosecution is that, the deceased was working as a Watchman in a Tea Estate, alleging dereliction in his duty, the deceased was said to have informed to the Supervisor P.W.1 and after enquiry, the accused was removed from service. With that motive, on the date of occurrence ie., on 22.04.2016, there was a wordy quarrel between the petitioner/accused and the deceased, in which, the petitioner said to have attacked the deceased with Sickle on his head and as a result, the deceased suffered serious injuries; Immediately, he was taken to Cumbum Government hospital, thereafter, he was admitted in Medical College Hospital at Theni, where after eight days, he succumbed to the injuries on 30.04.2016. There are four eye witnesses in this case. The trial Court believing the evidence of the eye witnesses, convicted the petitioner/accused and sentenced him as stated above.

3. The learned counsel for the petitioner would submit that, the occurrence had taken place in a wordy quarrel and there are lot of contradictions in the evidence of the eyewitnesses, and the motive was also not properly established by the prosecution. The trial Court without considering the same, convicted the petitioner/accused and therefore, 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 four eyewitnesses to the occurrence and in which, P.W.1 is the Supervisor and others are the employees working in the Estate and they have consistently stated that only the petitioner had attacked the deceased with Sickle and caused serious injuries to the deceased, and later, he succumbed to the injuries. He would further submit that there is no reason to disbelieve the evidence of the eyewitnesses and the trial Court on proper appreciation of evidence, convicted the petitioner/accused 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 materials, it is seen that the accused was working as a Watchman in the Tea Estate and the deceased was one of the employees in the Estate. Alleging that the petitioner was not discharging his duties sincerely, the deceased said to have informed to P.W.1 Supervisor, and after enquiry, the petitioner was removed from service, that was the motive stated for the occurrence.



Thereafter, on 22.04.2016, there was a wordy quarrel between the petitioner and the deceased and that was witnessed by P.Ws. 1 to 4. During the wordy quarrel, out of sudden provocation, the petitioner was said to have attacked the deceased with Sickle, which was available in the scene of occurrence and caused serious injuries on the deceased and he was taken treatment for nearly eight days and only on 30.04.2016, he succumbed to the injuries.

7. Considering the circumstances that, the occurrence had taken place due to wordy quarrel and out of sudden provocation, the petitioner/accused said to have attacked the deceased and there is no premeditation for the petitioner/accused to commit the crime, We find, a *prima facie* case has been made out for grant of suspension of sentence.

8. 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 Judicial Magistrate Court, Uthamapalayam.

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

/ 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



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE (FTC),  
THENI.

2. THE JUDICIAL MAGISTRATE, UTHAMAPALAYAM.

3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
THENI DISTRICT.

4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

5. THE INSPECTOR OF POLICE  
GUDALUR NORTH POLICE STATION,  
THENI DISTRICT.

6. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-5215[I] dated 09/08/2021)

ORDER

IN

CRL MP(MD) No.4466 of 2021 in  
Crl.A.(MD).No.252 of 2019

Date :09/08/2021

PM

MS/PN/SAR-3/10.08.2021/4P.8C