



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.4875 of 2021

IN

CRL A(MD) No.621 of 2019

SELVAMURUGAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
MANDAPAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
(CRIME NO.69 OF 2014)

... 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 in S.C.No.72 of 2015 dated on 25.04.2018 on the file of the Principal District Court, Ramanathapuram.

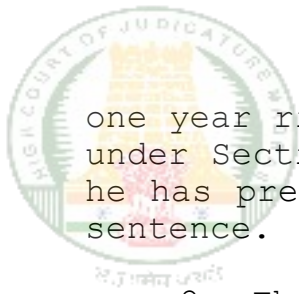
PRAYER IN CRL A(MD)No.621 of 2019:

To set aside the conviction and sentence imposed by the trial court by its judgment passed in S.C.No.72 of 2015 dated 25.04.2018 on the file of the Principal District Court, Ramanathapuram and 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.ARUNPRASAD, 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 is the sole accused in Sessions Case No.72 of 2015, on the file of the Principal District Court, Ramanathapuram, was tried for the offences under Sections 294(b) and 302 of I.P.C., and he was convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.25,000/-, in default to undergo



one year rigorous imprisonment and he was acquitted from the offence under Section 294(b) I.P.C. Challenging the conviction and sentence, he has preferred the appeal. Pending appeal, he seeks suspension of sentence.

2. The deceased Muneeswaran is the brother of P.W.1 and the accused is her paternal uncle. The husband of the P.W.1 was the drunkard and he suffered from jaundice, despite that, on 25.04.2014, he had consumed liquor. Hence, the petitioner has questioned the same, at that time, the deceased intervened and attacked the petitioner. With that motive, on the same day, at about 3.30 p.m., the petitioner attacked the deceased with knife and caused injury in the chest and thigh and thereby caused his death. The trial Court, after considering the materials available on record, convicted the petitioner and sentenced him as stated supra. Challenging the same, the present appeal has been filed. Pending appeal, the petitioner has sought for suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the deceased are closely related and the deceased is the brother of P.W.1. The husband of P.W.1 despite suffered jaundice, he was consuming liquor and the same was questioned by the petitioner. At that time, there was a wordy quarrel and out of sudden provocation, the petitioner said to have attacked the deceased with the available materials at the scene of occurrence and there is no intention for causing his death. But the trial Court, without considering the evidence, convicted the accused.

4. Mr.S.Ravi, learned Standing counsel appearing for the State would submit that earlier occurrence has taken place on 25.04.2014, at 2.45 p.m., thereafter, at about 3.30 p.m., the petitioner has attacked the deceased and the occurrence has not taken place, due to wordy quarrel and it is a premeditated murder. The trial Court disbelieving the evidence of the eyewitnesses, convicted the accused and after the judgment, the petitioner was absconding for more than ten months. Thereafter only he was surrendered on 14.02.2019. Hence, the suspension of sentence need not be granted to the petitioner.

5. We have heard the learned counsel on either side and perused the materials available on record.

6. From the perusal of the records, it is seen that both the parties are closely related. Earlier, the petitioner/accused has questioned the husband of the P.W.1, while he was consuming liquor. Due to the same, a wordy quarrel arose between the deceased, who is the brother of P.W.1 and the petitioner and sudden provocation, the petitioner said to have attacked the deceased with the materials available at the scene of occurrence and there is no intention to



granted bail and there is no bad antecedents against him.

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 petitioners alone is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail, on his 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 District Munsif cum Judicial Magistrate, Rameswaram.

(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/-

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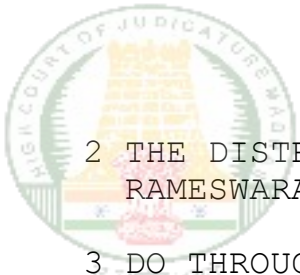
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 PRINCIPAL DISTRICT JUDGE,
RAMANATHAPURAM



2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
RAMESWARAM.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM

4 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

5 THE INSPECTOR OF POLICE
MANDAPAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

ORDER

IN

CRL MP(MD) No.4875 of 2021
IN

CRL A(MD) No.621 of 2019

Date :13/08/2021

SA/PN/SAR.1/17.08.2021/4P/7C