



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

Thursday, the Twenty Sixth 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.5752 of 2021

IN

CRL A(MD)No.342 of 2021

PONVANDU @ PONRAJ

... PETITIONER/APELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
THALAIMUTHU NAGAR POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO. 481 OF 2015.

... 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 upon the petitioner by the learned II Additional District and Sessions Judge, Thoothukudi in S.C.No.3 of 2017 dated 19.08.2019 pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD)342 of 2021:

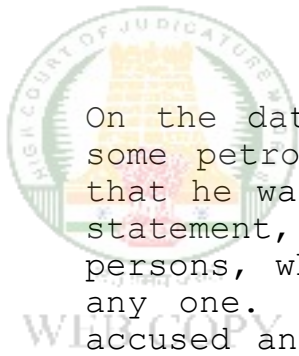
To call for the records relating to the Judgement passed in S.C.No.3/2017 dated 19.08.2019 on the file of the learned II Additional District and Sessions Judge, thoothukudi and to set aside the same.

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.THIRUVARUTSELVAN, 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, who is the sole accused in S.C.No.3 of 2017, on the file of the learned II Additional District and Sessions Judge, Thoothukudi, stood charged for the offence under Section 302 of IPC., and convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for a period of six months. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks for suspension of sentence.

2. The case of the prosecution is that the deceased Ganesaboopathi and the accused were working as drivers under P.W.1.



On the date of occurrence, P.W.1 asked the deceased to purchase some petrol and he came late, on enquiry, he said to have stated that he was abducted and attacked by somebody else and based on his statement, the deceased, accused and P.W.1 have searched for those persons, who said to have abducted the deceased, but could not find any one. At that time, there was a wordy quarrel between the accused and the deceased, in which, out of sudden provocation, the accused attacked the deceased with aruval on his neck and caused his death.

3. The learned counsel appearing for the petitioner would submit that both the accused and the deceased were working as drivers under P.W.1 and on the date of occurrence, there was a wordy quarrel between the accused and the deceased, in which, out of sudden provocation, the accused said to have attacked the deceased with aruval on his neck and caused his death. The accused has no intention to cause his death, and he has no bad antecedents. Further, the accused is in jail for more than two years.

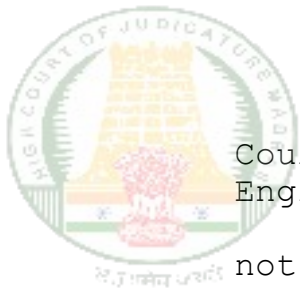
4. Mr.S.Ravi, the learned Standing Counsel appearing for the State would submit that both the deceased and the accused were working as drivers under P.W.1 and on the date of occurrence, there was a wordy quarrel between the accused and the deceased, in which, the accused attacked the deceased with aruval and due to the attack, the deceased sustained 11 cut injuries all over the body and caused his death. P.W.1 and P.W.2 are the eyewitnesses to the occurrence. Considering those witnesses, the trial Court has rightly convicted the accused and there is no error in the Judgment.

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

6. Perusal of the records it is seen that both the petitioner and the accused were employed as drivers by P.W1. From the evidence of P.W.1 it could be seen that at the time of occurrence, there was a wordy quarrel between the accused and the deceased and out of sudden provocation, the accused said to have taken aruval, which is available in the scene of occurrence, attacked the deceased and caused his death and he has no intention to cause his death. That apart, he has no bad antecedents and pending trial he was on bail, and now he is in jail for more than two years, we find a prima facie case has been made out for grant of suspension of sentence.

7. Considering the above facts and circumstances of the case, 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 Judicial Magistrate No.II, 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/-

26/08/2021

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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 II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI.
- 2.THE JUDICIAL MAGISTRATE NO.II
THOOTHUKUDI.
- 3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
- 4.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
- 5.THE INSPECTOR OF POLICE
THALAIMUTHU NAGAR POLICE STATION,
THOOTHUKUDI DISTRICT.
- 6.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.5752 of 2021 IN
CRL A(MD)No.342 of 2021
Date :26/08/2021

SA/VR/SAR.1/31.08.2021/3P/7C