



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

Monday, the Twentieth day of September Two Thousand and Twenty One

PRESENT

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

Crl.M.P.(MD).No.6626 of 2021
in
Crl.A.(MD).No.560 of 2019

MUNIASAMY

... PETITIONER/ 1st APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KRISHNANKOVIL POLICE STATION, VIRUDHUNAGAR DISTRICT.
IN CRIME NO.29/2011 ... 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 by the Principal District and Sessions court, Virudhunagar District at Srivilliputtur in S.C.No.196 of 2011 on 02.11.2019 and release me on bail pending disposal of the Criminal Appeal

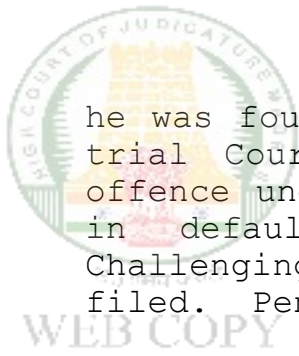
Prayer in Crl.A.(MD).No.560 of 2019:

To set aside the conviction and sentence imposed by the Principal District and Sessions court, Virudhunagar District at Srivilliputtur in S.C.No.196 of 2011 on 02.11.2019 and allow this Criminal 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.M.JOTHI BASU, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the respondent, the court made the following order:-

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

Totally there are two accused in S.C.No.196 of 2011, on the file of the Principal District and Sessions Court, Virudhunagar District at Srivilliputtur. The petitioner is the first accused and



he was found guilty for the offence under Section 302 of IPC. The trial Court sentenced him to undergo life imprisonment for the offence under Section 302 IPC., and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for one year. 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 and the accused are neighbouring land owners and there was a civil dispute with regard to taking water in a common well. On 13.03.2011 at about 6.30 p.m., while the deceased and the injured witnesses namely P.W.3 irrigating the land by taking water from the common well, there was a wordy quarrel between the accused and the deceased family, in which A1 in this case attacked the deceased with knife and caused his death. The trial Court, on appreciation of evidence, found him guilty and convicted and sentenced him as stated above.

3. The learned counsel for the petitioner would submit that the occurrence was taken place in a wordy quarrel in respect of taking water from the common well. During the wordy quarrel between the accused and the deceased, out of sudden provocation, the petitioner attacked the deceased and caused his death. From the evidence it is clear that it is not a premeditated murder. The petitioner is in jail for the past 18 months. He would further submit that the co-accused/A2 in this case has been granted the relief of suspension of sentence by this Court on 10.08.2021.

4. Mr.S.Ravi, learned Standing counsel appearing for the State strongly opposing the bail application would submit that there are two injured witnesses namely P.Ws.3 and 5 and there was a civil dispute between the accused and the deceased in respect of taking water in a common well, the occurrence had taken place, in which, A1 attacked the deceased with knife and caused his death. The trial Court believing the evidence of the eye witnesses, convicted the petitioner/accused and he is not entitled for bail.

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

6. Admittedly, there was a civil dispute between the parties regarding taking water from the common well and on the date of occurrence, there was a wordy quarrel in which, due to sudden provocation, A1 attacked the deceased with knife and caused his death. Further, in respect of A2, who is similarly placed accused in this case, his sentence has been suspended by this Court.

7. Considering the fact that the occurrence had taken place in a wordy quarrel, and in sudden provocation only, the first accused attacked the deceased and caused his death, 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/A1 alone is suspended, subject to the following conditions:

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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, Srivilliputtur.

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/-

20/09/2021

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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 PRINCIPAL DISTRICT AND SESSIONS COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE NO.II, SRIVILLIPUTHUR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



4 THE INSPECTOR OF POLICE
KRISHNANKOVIL POLICE STATION, VIRUDHUNAGAR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.G.M.LAW OFFICE, Advocate SR.No.6386.

ORDER
IN
Crl.M.P.(MD).No.6626 of 2021
in
Crl.A.(MD).No.560 of 2019
Date :20/09/2021

MPK
MK/VR/SAR.IV/22.09.2021/4P/8C