



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

Friday, the Nineteenth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6969 of 2021

IN

CRL A(MD)No.381 of 2021

CHANDRAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
VILAMPATTI POLICE STATION,
DINDIGUL DISTRICT.
(CR.NO. 55 OF 2014)

... RESPONDENT/COMPLAINANT

AYYAVU

... PROPOSED 3rd PARTY
IN CRL MP(MD)No.9947/2021

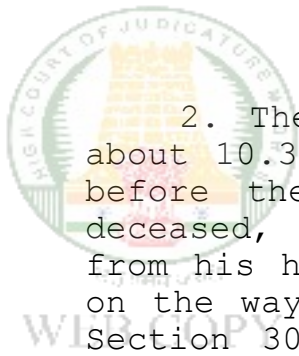
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence and grant bail to the Appellant/Sole Accused against the Judgment dated 12.08.2021 in S.C.No.11 of 2017 on the file of the Additional Sessions cum District Court, Dindigul District in Crime No.55 of 2014 on the file the Respondent Police pending disposal of the instant Criminal Appeal on such terms and conditions as may be deemed fit.

PRAYER IN CRL A(MD)No.381 of 2021:

To call for the records of the Judgment dated 12.08.2021 in S.C.No.11 of 2017 on the file of the Learned Sessions and District Court in Crime No.55 of 2014 on the file the Respondent Police and set aside the same and Acquit the Appellants/Accused No.2 & 4.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.T.LAJAPATHI ROY, Advocate for the Appellant and of Mr.K.SANJAI GANDHI, Government Advocate on behalf of the Respondent, Mr.A.SIVASUBRAMANIAN, Advocate for the Intervener the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Additional District and Sessions Judge, Dindigul District, in S.C.No.11 of 2017, dated 12.08.2021, till the disposal of the appeal.

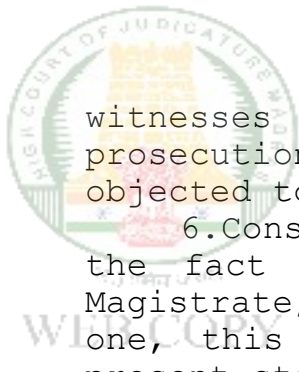


2. The case against the petitioner is that on 27.11.2014, at about 10.30 pm., the petitioner jumped the queue that was standing before the Ration shop. When the same was questioned by the deceased, the petitioner has a wordy quarrel and he took a knife from his house, which is nearby and stabbed the deceased, who died on the way to the Hospital. A case in Crime No.55 of 2014, under Section 302 of I.P.C, was registered against the petitioner. The case was taken on file as S.C.No.11 of 2017 on the file of the Additional District and Sessions Judge, Dindigul. The Additional District and Sessions Judge, Dindigul, convicted the petitioner under Section 304-I of I.P.C and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period of one month simple imprisonment. Against the conviction and sentence, the petitioner filed an Appeal in Crl.A.(MD)No.381 of 2021. Along with the Appeal, he has filed the present petition for suspension of sentence.

3.On the side of the petitioner, it is stated that out of 20 witnesses examined by the prosecution, three witnesses are interested witnesses. P.W.1 is the wife of the deceased. P.W.2 is the father-in-law of the deceased. The trial Court has considered their evidence as unbelievable. Only based on the evidence of P.W.4, the trial Court has convicted the petitioner. The evidence of P.W.4 is only five lines. There are contradictions in the evidence of P.W.1 to P.W.3 and P.W.7 - Investigating Officer, regarding the presence of the witnesses, at the time of occurrence. There are much more points for arguments in the main appeal. The petitioner is in custody for the past 90 days. Through out the trial, the petitioner was enjoying bail. The petitioner is ready to stay away in another District and prayed the sentence to be suspended.

4.On the side of the intervenor, it is stated that originally the case was registered under Section 302 of I.P.C. P.W.2 is the father of the deceased. During the pendency of the trial, brother of the petitioner and his family members threatened the father of the deceased. A complaint was lodged by P.W.2 and a separate case in Crime No.17 of 2015 was registered against the family members of the petitioner and the case was taken on file as C.C.No.121 of 2015 and is pending before the Judicial Magistrate, Nilakottai. Only one witness was examined in that case. The petitioner is a history sheeted person. There is a chance to stall the trial of other case and tamper the witnesses in the other trial. P.W.1 to P.W.3 heard about the first incident, but, they saw the second incident. P.W.4 is an independent witness. The prosecution has proved the case beyond all reasonable doubts. There is a threat to the family members of the deceased and objected to the suspension of sentence.

5.On the side of the prosecution, it is stated that this is a case of recent judgment. There was 8 years enmity between the deceased and the petitioner, which started during Panchayat Election. Only with the motive, the petitioner went to his house with the knife. The prosecution has examined 20



witnesses and marked 18 documents and 5 material objects. The prosecution has proved the case beyond all reasonable doubts and objected to the suspension of sentence.

6. Considering the serious nature of the offence and considering the fact that a connected case is pending before the Judicial Magistrate, Nilakottai and considering that the judgment is a recent one, this Court is not inclined to suspend the sentence at the present stage. Hence, this Petition is dismissed.

sd/-

19/11/2021

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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 ADDITIONAL SESSION AND DISTRICT JUDGE,
DINDIGUL.

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI,
MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
VILAMPATTI POLICE STATION,
DINDIGUL DISTRICT.

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

+1. C.C. to Mr. A. SIVASUBRAMANIAN, Advocate SR.No.8307

ORDER

IN

CRL MP(MD) No.6969 of 2021

IN

CRL A(MD) No.381 of 2021

Date : 19/11/2021

SA/VR/SAR.3/01.12.2021/3P/6C