



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

Wednesday, the Twenty Second day of September Two Thousand and
Twenty One
PRESENT

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

CRL MP(MD) No.6774 of 2021
IN
CRL A(MD)No.183 of 2021

PALANIMURUGAN @ PALANI

... PETITIONER/SINGLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PALAYAMKOTTAI POLICE STATION,
TIRUNELVELI DISTRICT
(CRIME NO.188 OF 2011)

... RESPONDENT/COMPLAINANT

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 of imprisonment imposed on the petitioner in the judgment dated 18.03.2021 made in S.C.No. 115 of 2013 on the file of the I Additional Sessions Judge, Tirunelveli and enlarge the petitioner on bail pending disposal of the above Criminal appeal before this Honourable Court.

PRAYER IN CRL A(MD)No.183 of 2021:

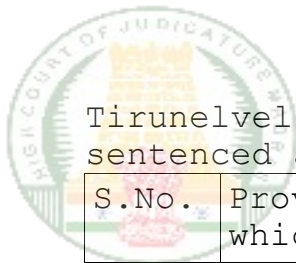
To call for the records and set aside the conviction imposed against the appellant in judgment dated 18.03.2021 made in S.C.No.115 of 2013 on the file of the I Additional District and Sessions Judge, Tirunelveli by allowing this Criminal Appeal.

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.P.SAMUEL GUNASINGH, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor(crl.side) on behalf of the Respondent, the court made the following order:-

O R D E R

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

The petitioner is the sole accused in S.C.No.115 of 2013, on the file of the learned I Additional District and Sessions Judge,
<https://hcservices.ecourts.gov.in/hcservices/>



Tirunelveli. The petitioner was found guilty and convicted and sentenced as follows:-

S.No.	Provision under which convicted	Sentence of Imprisonment	Fine Amount
1	341 IPC	1 Month S.I.	-
2	302 IPC	Life Imprisonment	Rs.1,000/-, in default, to undergo 3 months S.I.
3	307 IPC	Life Imprisonment	Rs.1,000/-, in default, to under 3 months S.I.
4	506(ii) IPC	7 years S.I.	-

2. The case of the prosecution is that there was a civil dispute between the petitioner and the deceased family over locating the haystack and on the date of occurrence, there was a quarrel between the parties. At the time of occurrence, the accused attacked the deceased with knife on his shoulder and thigh. P.W.2, is the brother of the deceased, who tried to prevent the attack and he was also attacked by the accused. Immediately, P.W.1, mother of the deceased, who was present in the scene of occurrence, with the help of the others, took the deceased to the hospital, where he succumbed to the injuries. Thereafter, a crime was registered and the trial Court, after considering the evidence, convicted the accused.

3. Mr.P.Samuel Gunasingh, the learned counsel appearing for the petitioner/appellant would submit that the occurrence took place in a wordy quarrel and out of sudden provocation, the petitioner said to have attacked the deceased in non-vital parts viz., shoulder and thigh. Since the deceased was not taken to the hospital immediately for treatment, the deceased died. Insofar as the injured witness is concerned, from the medical evidence it is seen that he only sustained lacerated injuries and there is no cut injuries, as alleged by the prosecution. The petitioner has no bad antecedents and he is in jail for more than six months.

4. Mr.S.Ravi, the learned Additional Public Prosecutor appearing for the State, would submit that there are two eyewitnesses viz., P.Ws.1 and 2, out of which, P.W.1 is the mother. P.W.2 is the injured witness. From their evidence it is seen that the petitioner with an intention to cause the death of the deceased, attacked him with knife. When P.W.2 tried to prevent him, he also attacked him and caused injuries. Their witnesses have been corroborated by the medical evidence. That apart, there is no delay in registering the FIR. The trial Court believing the evidence of P.W.2, convicted the accused. Considering the gravity of the offence, it is not a fit case to suspend the sentence.

5. We have considered the rival submission made on either side and have no objection to the trial Court's findings.



6. From the perusal of the records it could be seen that there was civil dispute between the parties. On the date of occurrence, there was a wordy quarrel and out of sudden provocation, the petitioner attacked the deceased on his shoulder and thigh, non-vital parts. From that it could be seen that the petitioner has no intention to cause death of the deceased. So far as the injured witness P.W.2 is concerned, from the medical evidence it could be seen that he only suffered with lacerated injuries. Considering all those circumstances, we find that, a prima facie case has been made out for grant of suspension of sentence.

7. 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.I, Tirunelveli.

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/-
22/09/2021

/ 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 concerned.

TO

1.THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.

2.THE JUDICIAL MAGISTRATE NO.I,
TIRUNELVELI.



3.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4.THE SUPERINTENDENT,
CENTRAL JAIL,
PALAYAMKOTTAI.

5.THE INSPECTOR OF POLICE
PALAYAMKOTTAI POLICE STATION,
TIRUNELVELI DISTRICT

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

+1. C.C. to Mr.P.SAMUEL GUNASINGH, Advocate SR.No.6461

ORDER

IN

CRL MP (MD) No.6774 of 2021
IN

CRL A (MD) No.183 of 2021

Date :22/09/2021

SA/VR/SAR.3/27.09.2021/4P/8C