



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

Monday, the First day of November Two Thousand and Twenty One
PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mr.Justice R.PONGIAPPAN

Crl.M.P. (MD) .No.8460 of 2021
in
Crl.A. (MD) .No.446 of 2019

KARUPPAIAH KANNAN ... PETITIONER/ APPELLANT / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KARUPPAYURANI POLICE STATION, MADURAI CITY.
(CRIME NO.88 OF 2015) ... RESPONDENT/ 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 imposed on the petitioner/appellant/sole accused by the Learned I-Additional District and Sessions Court, Madurai in S.C.No.539 of 2016 dt. 23/7/2019 and enlarge them to bail, pending disposal of the above Criminal Appeal.

Prayer in Crl.A. (MD) .No.446 of 2019:

To call for the records in S.C.No.539 of 2016 dated 23/7/2019 on the file of the Learned I-Additional District and Sessions Court, Madurai and 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.M.JEGADEESH PANDIAN, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

The petitioner is the sole accused in S.C.No.539 of 2016, on the file of the I Additional District and Sessions Court, Madurai and he stood charged and tried for the offences under Sections 302 and 506 (ii) of I.P.C.

2. The trial Court, vide impugned judgment dated 23.07.2019, has acquitted the petitioner for the offence under Section 506(ii) of I.P.C., and convicted him for the offence under Section 302 of I.P.C., and imposed the sentence, thus:



Rank of the Accused	Charge	Conviction
Sole Accused	U/s. 302 of I.P.C.	To undergo life imprisonment and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of three months.

Now, challenging the above said conviction and sentence, the petitioner/sole accused has preferred the appeal. Pending appeal, he seeks suspension of sentence.

3. The case of the prosecution is that the deceased in this case one Vadamugam is the watchman in mango grove owned by P.W.2. The accused used to steal mangoes from the grove, which was warned by the deceased. Due to that motive, on 29.04.2015, at about 1.00 p.m., the accused went to the grove and took a rope and hence, there was a quarrel between them and the accused attacked the deceased with bill hook and caused his death. P.W.1 is the mother of the deceased and eyewitness to the occurrence. P.Ws.2 and 3 seen the accused running from the scene of occurrence. Immediately, a complaint was given by P.W.1. The trial Court, considering all these materials, convicted the petitioner as mentioned above. Challenging the same, the present appeal has been filed.

4. Mr.M.Jegadeesh Pandian, learned counsel appearing for the petitioner submitted that P.W.1 is the mother of the deceased and her presence in the scene of occurrence is highly doubtful. That apart, P.Ws.2 and 3 also not seen the occurrence and they only seen the accused running away from the scene of occurrence. Apart from that, there is no eyewitness available. Even though it is stated that the accused was arrested on the next day, from the evidence of P.W.1, it could be seen that at about 6.15 p.m., on the very same day, she seen the accused in the police station. He further submitted that the petitioner was convicted on 23.07.2019 and he is in jail for more than 2 ½ years and he has no bad antecedent.

5. Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State submitted that the accused used to steal mangoes from P.W.2's mango grove, which was warned by the deceased watchman. Due to the said motive, the accused attacked the deceased with bill hook and caused his death. P.W.1, the mother of the deceased, is the eyewitness to the occurrence. Considering the above circumstances, the trial Court has rightly convicted the petitioner and it is not a fit case for grant of suspension of sentence.



6. Heard Mr.M.Jegadeesh Pandian, learned counsel appearing for the petitioner/sole accused and Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State and perused the materials available on records.

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7. P.W.1, the mother of the deceased is the one and only eyewitness to the occurrence. P.W.2 is the owner of the grove and P.W.3 is the friend of P.W.2 and they only said to have seen the accused, after the occurrence. As rightly pointed out by the learned counsel for the petitioner that there is a discrepancy in the arrest of the accused and recovery.

8. Considering these circumstances, we find some arguable points involved in this case and the petitioner is in jail for more than 2 ½ years and he has no bad antecedent. Hence, 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.V, Madurai.

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/-
01/11/2021

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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 JUDICIAL MAGISTRATE NO.V,
MADURAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3 THE I-ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MADURAI.

4 THE INSPECTOR OF POLICE
KARUPPAYURANI POLICE STATION, MADURAI CITY.

5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

ORDER

IN

Crl.M.P. (MD) .No.8460 of 2021
in

Crl.A. (MD) .No.446 of 2019

Date :01/11/2021

AKV

MK/VR/SAR.IV/09.11.2021/4P/7C