



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.9080 of 2021

IN

CRL A(MD) No.453 of 2021

P.SUDHAGAR @ SELVARASU ... PETITIONER/APPELLANT/ACCUSED No.1

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
KEERANOOR POLICE STATION,
PUTHUKKOTTAI DISTRICT.
(CR.NO.175/2019)

... 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 by the Learned by the Additional District and Sessions Judge, Pudukkottai (Presiding Officer, Spl.Court for E.C.Act) passed in S.C.No.1 of 2020 dated 27.09.2021 and release the petitioner on bail.

PRAYER IN CRL A(MD) No.453 of 2021:

Pleased to Call for records and to set aside the judgment passed by the Additional District and Sessions Judge, (Presiding Officer, Special Court for E.C.Act) Puthukkottai in S.C.No.1 of 2020 dated 27.09.2021 and acquit the appellants herein.

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.EBENEZER CHARLES.T.J., Advocate for the petitioner and of Mr.R.M.ANBUNITHI, Additional public Prosecutor on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the Additional District and Sessions Judge, Pudukkottai (Presiding Officer, Special Court for E.C.Act) in S.C.No.1 of 2020, dated 27.09.2021, till the disposal of the appeal.



2.The case against the petitioner is that On 11.07.2019, at about 5.30 pm., due to previous motive, the petitioner and others formed into an unlawful assembly with a motive to murder one Parameswaran and attached him with wooden logs. The said Parameswaran died on 14.07.2019, succumbed to the injuries. A case in Crime No.175 of 2019 was registered by the respondent police, under Sections 148, 294(b) and 302 I.P.C. and the same was taken on file as S.C.No.1 of 2020. After trial, the petitioner was found guilty under Section 304-II of IPC and he was acquitted from the charges under Sections 148 and 294(b) of I.P.C. by the Sessions Judge. The petitioner was sentenced to undergo four years rigorous imprisonment and to pay a fine of of Rs.10,000/- (Rupees Ten Thousand only) in default to undergo further period of three months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has preferred an appeal in Crl.A. (MD)No.453 of 2021. Along with the appeal, he has filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the case against the third accused was split up, since the third accused is a Juvenile. Out of the four accused, three of them were acquitted by the Sessions Court, even the petitioner was acquitted under Sections 148 and 294(b) of I.P.C. The offence under Section 302 I.P.C was altered by the Sessions Court under Section 304-II of I.P.C. There are contradictions in the evidence of prosecution witness. Even the trial Court was disbelieving the case of the prosecution in Para - 14 of the judgment, there is no medical evidence in support of the prosecution case. In A.I.R copy, it is stated that three persons attacked the deceased, but, in the F.I.R., five persons were arrayed as accused. *Post mortem* report reveals that the deceased consumed Alcohol. The petitioner is in custody from 27.09.2021 and prayed the sentence to be suspended.

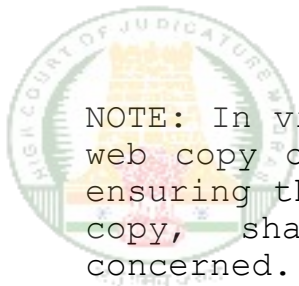
4.On the side of the prosecution, it is stated that the prosecution has examined 11 witnesses and marked 15 documents and one material object. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody only from 27.09.2021. The offence involved is serious in nature. Hence, this Court is not inclined to grant suspension of sentence. This Petition is dismissed.

sd/-
12/11/2021

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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.

WEB COPY

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(PRESIDING OFFICER, SPECIAL COURT FOR E.C ACT),
PUDUKOTTAI.
- 2 THE INSPECTOR OF POLICE
KEERANOOR POLICE STATION,
PUTHUKKOTTAI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.9080 of 2021
IN
CRL A(MD) No.453 of 2021
Date :12/11/2021

SS/JM/SAR-I/24.11.2021 : 3P/5C