



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

Tuesday, the Thirtieth day of November Two Thousand and Twenty One
PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL.M.P.(MD)Nos.9795 and 9796 of 2021

in

CRL.R.C.(MD)No.839 of 2021

1. KANNADASAN
2. KAMARAJ
3. SUBRAMANIAN

... PETITIONERS/APPELLANTS
IN BOTH PETITIONS

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
VALLAM POLICE STATION,
VALLAM, THANJAVUR DISTRICT.

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentences passed in C.A.No. 75 of 2017 on the file of the 2nd Additional District and Sessions Judge, Thanjavur, dated 20.09.2021, dismissed the appeal by confirming the order passed in S.C.No. 30 of 2013 on the file of the Additional Assistant Sessions Judge, Thanjavur, dated 31.10.2021.

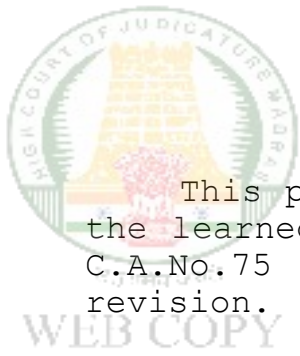
Prayer in CRL MP(MD) No.9796/2021 :

To exempt the petitioners from surrender as per judgement made in C.A.No. 75 of 2017 on the file of the 2nd Additional District and Sessions Judge, Thanjavur, dated 20.09.2021, dismissed the appeal by confirming the order passed in S.C.No. 30 of 2013 on the file of the Additional Assistant Sessions Judge, Thanjavur, Dated 31.10.2017.

Prayer in CRL RC(MD) No.839/2021 :

To call for records pertaining to the C.A.No. 75 of 2017 on the file of the 2nd Additinoal District and Sessions Judge, Thanjavur dated. 20.09.2021 dismissed the appeal by confirming the order passed in S.C.No. 30 of 2013 on the file of the Additional Assistant Sessions Judge, Thanjavur, Dated 31.10.2017 and set aside the same and allow this Criminal Revision Petition.

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. KARNAN.G., Advocate for the petitioner and of Mr.K.SANJAY GANDHI, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-



This petition has been filed to suspend the sentence imposed by the learned II Additional District and Sessions Judge, Thanjavur in C.A.No.75 of 2017 dated 20.09.2021, till the disposal of the revision.

2.The offence against the petitioner is that on 03.12.2011 at about 05.00 p.m. with a prior motive, the petitioners and other accused abused the defacto complainant. First accused attacked PW1 and caused him grievous head injury. Second accused Selvakumar attacked PW1 with aruval and caused injury on the back side of the head. Third accused Kamaraj attacked witness Saminathan and caused grievous injury. Fourth accused Subramnian attacked witnesses Saminathan and caused him simple injury. A case in Crime No.441 of 2011 was registered against the petitioner and the case was taken on file as S.C.No.30 of 2013 on the file of the Additional Assistant Sessions Judge, Thanjavur. The accused 1 and 2 were found guilty under Section 307 IPC. The third accused was found guilty under Section 326 IPC. The fourth accused was found guilty under Section 324 IPC. The trial Court sentenced A1 and A2 to undergo 5 years Rigorous Imprisonment each and to pay a fine of Rs.3,000/-, each and in default to undergo 6 months Rigorous Imprisonment under Section 307 IPC. The trial Court sentenced A3 to undergo 4 years Rigorous imprisonment and to pay fine of Rs.5,000/-, in default 5 months Rigorous imprisonment under Section 326 of IPC. Sentenced A4 to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 3 months Rigorous Imprisonment under Section 324 of IPC. Against the conviction and sentence all the accused filed an appeal before II Additional District and Sessions Judge, Thanjavur in Crl.A.No.75 of 2017. A2 was acquitted and the conviction and sentence imposed against A1, A3 and A4 was confirmed by the Appellate Court. Against the Judgment Accused Nos.1, 3 and 4 filed a revision in Crl.R.C.(MD).No.839 of 2021. Along with the revision, they filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there was no overt act against these petitioners in the evidence of PW1. When one of the accused was acquitted there is no logic in convicting the other accused. A judgment of this Court reported in 2016 (3) MLJ Crl. 231 is cited.

4.On the side of the prosecution, it is stated that injuries are grievous in nature and the injuries are on the head of the victim. Prosecution has examined 14 witnesses and marked 11 documents and 4 M.Os. and proved the case beyond reasonable doubt. Appellate Court also confirmed the conviction and sentence imposed by the trial Court. Petitioners did not surrender till date and prayed the petitioner to be dismissed.



5.The Judgment of the Appellate Court was pronounced on 20.09.2021. It is seen that the petitioners were absent on the date of pronouncement of judgment and failed to surrender before the Court so far. In view of the same, petitioners are directed to surrender before the Court and then they are at liberty to file a fresh petition.

6.These Criminal Miscellaneous Petitions are dismissed with the above directions.

sd/-
30/11/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR.
2. THE ADDITIONAL ASSISTANT SESSIONS JUDGE,
THANJAVUR.
3. THE INSPECTOR OF POLICE,
VALLAM POLICE STATION, VALLAM,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL.M.P. (MD) Nos.9795 and
9796 of 2021 in
CRL.R.C. (MD) No.839 of 2021
Date :30/11/2021

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USK/PN/SAR-II/ (07.12.2021) 3P-5C