



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

Thursday, the First day of December Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.4157 of 2022

IN

CRL A(MD) No.254 of 2022

JEYAKRISHNAN

... APPELLANT/ACCUSED No.2

Vs

THE INSPECTOR OF POLICE
KENIKARAI TALUK POLICE STATION,
RAMANATHAPURAM DISTRICT
(CRIME NO. 175 OF 2013)

... 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 impsed against the appellant in S.C.No. 127 of 2016, Dated. 20.10.2021 on the file of the Hon`ble Additional District and Sessions Judge, Ramanathapuram and release petitioner on bail till the disposal of the appeal.

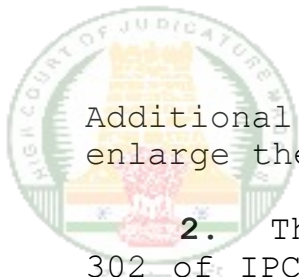
PRAYER IN CRL.A(MD).254/2022:

Pleased to call for the entire records connected to the judgment in S.C.No.127 of 2016 dated 20.10.2021 on the file of the Hon`ble Additional District and Sessions Judge, Ramanathapuram and set aside the conviction and sentece imposed against the appellant.

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.T.LAJAPATHI ROY, Advocate for M/S.ALAGUMANI.R., Advocate for the petitioner and of Mr.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **N. ANAND VENKATESH, J.**)

This petition has been filed by A2 seeking for suspension of sentence imposed on the petitioner, by judgment and order dated 20.10.2021 passed in S.C.No.127 of 2016 on the file of the learned



Additional District and Sessions Judge, Ramanathapuram, to enlarge the petitioner on bail pending disposal of the above appeal.

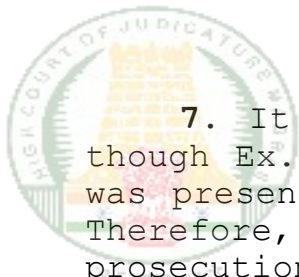
2. The petitioner was convicted for the offence under Section 302 of IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- and in default, to undergo six months simple imprisonment.

3. The case of the prosecution is that on 28.04.2013, the deceased Muthusamy received a phone call from one Jeyakrishnan and he was informed that one Ravi had handed over the money and asked the deceased to come near the barber shop. When the deceased went along with PW12 in a two-wheeler, A2 is said to have sprinkled chilli powder on the face of the deceased and thereafter, the deceased was attacked indiscriminately by the accused person. There are totally five accused persons in this case. The case was split up and A1 was convicted and sentenced in S.C.No.25 of 2020. A2 to A5 underwent a separate trial and A5 was acquitted. A3 and A4 were convicted for the offence under Section 302 r/w 109 of IPC.

4. Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

5. The entire case of the prosecution hinges upon the evidence of PW12, who is the eye-witness in this case. This witness was the nephew of the deceased. He accompanied the deceased in the two-wheeler and according to PW12, the entire incident happened in his presence. Immediately after the incident, PW12 informed about the incident to PW3, who is his father and PW4, who is the father of the deceased. In view of the same, we went through the evidence of PW3 and PW4 in order to see if the eye-witness account of PW12 has been corroborated by the evidence of PW3 and PW4. PW3 in his evidence speaks about A1 attacking the deceased and he further adds that he was informed by PW12 that A2 was also present in the scene of crime and he was the one, who sprinkled the chilli powder on the deceased. Whereas, PW4, in his evidence, states that the name of A1 alone was stated by PW12 and he was further informed that the names of the others were not known to PW12. In view of this evidence of PW3, the very identity of the petitioner has been questioned.

6. Apart from the above, the evidence of PW9 was also brought to the notice of this Court. This witness was the Scientific Officer, who analyzed the material objects, that were seized from the scene of crime. The report given by this Scientific Officer states that there was no presence of chilli powder from the soil that was taken from the scene of crime. In view of the same, it has been contended that there is a clear doubt as to whether A2 could have sprinkled the chilli powder on the deceased as claimed by PW12.



7. It was also brought to the notice of this Court that even though Ex.P1, complaint was given by PW3 only at 08.00 p.m., there was presence of the police in the scene of crime even before that. Therefore, it was contended that the very genesis of the case of the prosecution is in question.

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8. Taking into consideration the facts and circumstances of the case and also the fact that a prima facie case has been made out insofar as the petitioner is concerned and there are no previous cases pending against the petitioner and it will take some more time to take up the Criminal Appeal for final hearing, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.127 of 2016 dated 20.10.2021 subject to the following conditions:-

- (i) The petitioner shall pay the fine amount as imposed by the Court below, if not paid;
- (ii) The petitioner shall execute bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Additional District and Sessions Judge, Ramanathapuram,;
- (iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar cards or Bank pass Books to ensure their identity; and
- (iv) The petitioner shall appear before the respondent police every Monday at 10.30 a.m., for a period of 8 weeks. After completion of the period reporting before the respondent police, the petitioner shall report before the Additional District and Sessions Judge, Ramanathapuram, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

01/12/2022

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02/12/2022

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



TO

1 THE ADDITIONAL DISTRICT & SESSIONS JUDGE,
RAMANATHAPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
KENIKARAI TALUK POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

+1. C.C. to M/S.ALAGUMANI.R. Advocate SR.No.14166

ORDER

IN

CRL MP (MD) No.4157 of 2022

IN

CRL A (MD) No.254 of 2022

Date :01/12/2022

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