



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

Friday, the Twenty Eighth day of October Two Thousand and
Twenty Two
PRESENT

WEB COPY

The Hon`ble Mrs.Justice J.NISHA BANU
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.5814 of 2022
IN
CRL A(MD)No.293 of 2022

RANJITHKUMAR

... APPELLANT/PETITIONER

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
B5 SOUTH GATE POLICE STATION,
MADURAI DISTRICT.

... RESPONDENT/RESPONDENT

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 against the petitioner in SC No.361/2017 dt.22/3/2022 passed by the Learned VI Additional Sessions Judge, Madurai and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER IN CRL A(MD) .293/2022:

Pleased to call for the records in S.C.No.361 of 2017 dated 22.03.2022 passed by the Learned VI Additional Sessions Judge, Madurai and to 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 M/S.KARUPPASAMMY PANDIYAN G, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed by A9 seeking for suspension of sentence and he was convicted and sentenced by the Court below in the following manner:

S.No.	Offence for which convicted	Sentence
1.	Section 120B IPC	Life Imprisonment and pay a fine of Rs.10,000/- and in default to undergo six months Simple Imprisonment.



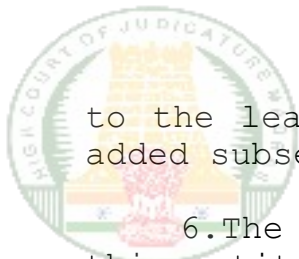
2.	Section 148 IPC	Three years rigorous imprisonment and to pay a fine of Rs.10,000/- and in default to undergo three months Simple imprisonment.
3.	Section 302 IPC r/w.149 IPC	Life imprisonment and to pay a fine of Rs.10,000/- and in default to undergo six months Simple imprisonment.

2.The case of the prosecution is that there was a dispute with regard to the cutting of Julie Flora trees and the accused persons entered into criminal conspiracy on 05.08.2014 at about 10.00 p.m., in the house of A1 and decided to do away with the deceased. In continuation of the same, on 08.08.2014 at about 08.45 p.m, the accused persons formed an unlawful assembly carrying deadly weapons and they attacked the deceased indiscriminately resulting in instantaneous death of the deceased. There are totally 11 accused persons in this case and one accused died during the pendency of the case and one other accused was a Juvenile, who was separately tried by the Juvenile Justice Board. In view of the same, totally 9 accused persons faced trial before the Court below and the petitioner has been ranked as A9. The overt act attributed against the petitioner is that he caused a stab injury in the right side chest of the deceased.

3.Heard Mr.G.Karuppasamy Pandiyan, learned counsel appearing for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the respondent.

4.The learned counsel for the petitioner submitted that P.W.1, P.W.2 and P.W.10 were examined by the prosecution as eye witnesses and P.W.8 and P.W.11 were examined in order to prove the conspiracy. P.W.1 is the father-in-law of the deceased. P.W.2 is the wife of the deceased. P.W.10 is the relative of the deceased. The petitioner/A9 is also closely related to the eye witnesses. The incident took place on 08.08.2014 at about 08.45 p.m., and the complaint is said to have been given by P.W.1 at about 09.30 p.m. At the time of giving the complaint, P.W.1 had specifically mentioned the names of the 8 accused persons and the name of the petitioner was not mentioned. That apart, even when 161 statement was recorded from P.W.1 and P.W.2, they did not mention the name of the petitioner. It is brought to the notice of this Court that the 161 statement of P.W.10 was recorded on the next day after the incident and at that point of time, he had mentioned the name of the petitioner.

5.In view of the above, it was submitted that if really the petitioner/A9 had participated in the crime, there was no reason as to why P.W.1 and P.W.2 would not have named the petitioner, more particularly, since he is their close relative. Therefore, according



to the learned counsel for the petitioner, the petitioner added subsequently, without any material against him.

6.The learned Additional Public Prosecutor strongly contested this petition mainly on the ground that P.W.1, P.W.2 and P.W.10 have specifically spoken about the overt act of the petitioner and the same has not been discredited in the cross-examination and hence, the petitioner has not made out a case for suspension of sentence. The learned Additional Public Prosecutor also impressed upon this Court regarding the seriousness of the offence committed in this case.

7.This Court has also gone through the evidence of P.W.8 and P.W.11, who were examined on the part of the prosecution to substantiate the conspiracy. P.W.8 turned hostile and hence, the only other evidence that is available is the evidence of P.W.11. P.W.11 in his evidence also does not state about the presence of the petitioner/A9 when the conspiracy is said to have been hatched on 05.08.2014. Even the Investigating Officer, who was cross-examined on the side of A9, has stated that the name of A9 was not mentioned in the complaint and was not mentioned by P.W.1 and P.W.2, when they gave statement and his name was also not mentioned at the time of preparation of inquest.

8.The Court below had proceeded to convict and sentence the petitioner/A9 mainly on the ground that P.W.1, P.W.2 and P.W.10 have spoken about the overt act on the part of the petitioner.

9.In the considered view of this Court, the learned counsel for the petitioner/A9 has made out a prima facie case and the involvement of the petitioner/A9 requires serious consideration in this case. It is brought to our notice that there is only one previous case against the petitioner for offence under Sections 323 and 506(ii) IPC and there are no other bad antecedents against the petitioner. The petitioner has already suffered incarceration for nearly 7 months. This Court may not be able to take up the appeal in the near future and the grounds raised by the learned counsel for the petitioner/appellant require deeper consideration. It is brought to our notice that the fine amount had already been paid by the petitioner.

10.In view of the same, we are inclined to suspend the sentence imposed against the petitioner/A9 by the Court below in S.C.No.361 of 2017 dated 22.03.2022 subject to the following conditions:

- (I) The petitioner shall execute a 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 learned Judicial Magistrate No.IV, Madurai;



(ii) The sureties shall affix their photographs and Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(iii) 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 Judicial Magistrate No.IV, Madurai, once in fortnight 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/-

28/10/2022

/ TRUE COPY /

31/10/2022

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

TO

- 1 THE VI ADDITIONAL SESSIONS JUDGE, MADURAI.
- 2 THE JUDICIAL MAGISTRATE NO.VI, MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 5 THE INSPECTOR OF POLICE
B5 SOUTH GATE POLICE STATION, MADURAI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.KARUPPASAMMY PANDIYAN G Advocate SR.No.12060

ORDER IN

CRL MP(MD) No.5814 of 2022
IN

CRL A(MD)No.293 of 2022

Date :28/10/2022

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SA/SBN/SAR.1/31.10.2022/4P/9C

<https://www.mhc.tn.gov.in/judis>