



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

Tuesday, the Sixteenth day of August Two Thousand and Twenty Two

PRESENT

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**The Hon`ble Mr.Justice K.MURALI SHANKAR**

CRL MP(MD) No.7089 of 2022  
IN  
CRL A(MD) No.398 of 2022

1 VIGNESH

2 RAJA @ CHINNARAJA

3 JANAKIRAMAN

4 VIJAYALAKSHMI

5 SATHIYARAJ

... PETITIONERS/APPELLANTS

**Vs**

THE STATE REP.BY  
THE INSPECTOR OF POLICE  
VALLAM POLICE STATION,  
THANJAVUR DISTRICT.  
CRIME NO.199 OF 2011.

... 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 sentences passed in SC.No.145 of 2013 dated 15.06.2022 on the file of the Learned 2<sup>nd</sup> Additional District and Sessions Judge, Thanjavur pending disposal of the above said Criminal Appeal.

**PRAYER IN CRL A(MD)No.398 of 2022:**

Pleased to call for the records pertaining to the order made in S.C.No.145 of 2013 dated 15.06.2022 on the file of learned 2<sup>nd</sup> Additional District and Sessions Court, Thanjavur and set aside the same by allowing above appeal.

**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.J.SULTHAN BASHA, Advocate for the petitioners and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned II Additional District and



Sessions Judge, Thanjavur, in S.C.No.145 of 2013, dated 1.12.22 and enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that on 13.06.2011, there was a 'Kidavettu Virundhu' in the village and at about 04.00 pm, the defacto complainant's son SenthilKumar went to see his sister Tamil Selvi in his two wheeler; that while he was proceeding near Sundarraaj's House, Ramalingam, Selvam, Vignesh, Chinna Raja, Sathyaraj, Janakiraman and Selvanathan had way laid him and picked up quarrel with regard to the honouring in the temple festival; that the defacto complainant immediately questioned them as to why they picked up quarrel; that the third accused had immediately attacked the defacto complainant with brick and caused injury; that the second accused attacked the complainant with brick on his chest; that on seeing the quarrel, complainant's niece Manimegalai, Kayalvizhi, Rameshwari and deceased Pitchaiyan had intervened to compromise the issue; that the seventh accused attacked the P.W.3 Manimegalai with stone and caused injury; that the eighth accused had also attacked the witness Manimegalai with stone and caused injury; that the witness Kayalvizhi and Rameshwari had sustained injuries in the attack; that the second accused had also attacked the defacto complainant's relative Pitchaiyan by stone on his right eye; that the fourth accused had also attacked the said Pitchaiyan on his body; that the first accused had also attacked the said Pitchaiyan with brick on his head and caused grievous injury; that thereafter, all the injured were taken to the Government Hospital, Thanjavur with the help of his son and neighbors; that the complainant's relative Pitchaiyan was admitted at Intensive Care Unit in unconscious stage and that on the basis of the complaint given by the complainant, FIR came to be registered in Crime No.199 of 2011 against nine persons under Sections 147, 341, 294(b), 329 and 307 IPC. Since the injured Pitchaiyan had subsequently succumbed to the head injuries, the case was altered into Sections 147, 341, 294(b), 324, 307 and 302 IPC.

3. The respondent after completing the investigation, has laid the final report and that the case was taken on file in P.R.C.No.39 of 2011 on the file of the Court of Judicial Magistrate, Thanajvur and that subsequently, the case was committed to the Sessions Court and the case was taken on file in S.C.No.145 of 2013.

4. During trial, 19 witnesses have been examined as P.W.1 to P.W.19 and exhibited 15 documents as Ex.P.1 to Ex.P.15 and one material object as M.O.1. The defence has adduced neither oral nor documentary evidence.

5. Since the accused A5 and A8 had died, the charges against them were ordered to be abated. The learned Sessions Judge upon considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment, dated 15.06.2022, and found the petitioners guilty, convicted and sentenced them as detailed below:-



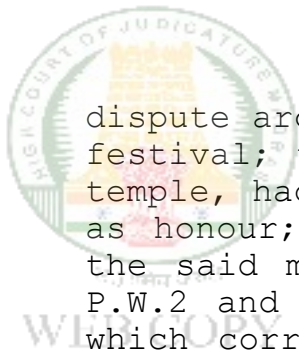
| Accused                       | Convicted under Section | Sentence of Imprisonment/fine imposed                                                               |
|-------------------------------|-------------------------|-----------------------------------------------------------------------------------------------------|
| Accused Nos.1 to 4 & 6, 7 & 9 | 147 IPC                 | Fine Rs.1000/ each in default one month Simple Imprisonment                                         |
| Accused Nos.1 to 4 & 6, 7 & 9 | 341 IPC                 | Fine Rs.500/- each in default two weeks Simple Imprisonment                                         |
| Accused Nos.2, 3, 4 & 7       | 324 IPC                 | Two months Simple Imprisonment                                                                      |
| Accused No.1                  | 299 r/w 304 IPC         | Ten years Rigorous Imprisonment and Fine Rs.10,000/- in default Six months Simple Imprisonment      |
| Accused Nos.2 to 4, 6, 7 & 9  | 299, 149 r/w 304 IPC    | Ten years Rigorous Imprisonment and Fine Rs.10,000/- each in default six months Simple Imprisonment |

Aggrieved by the said judgment of conviction and sentence, the accused has preferred the above appeal.

6. When the matter was taken up for hearing on 26.08.2022, the learned counsel for the petitioner submitted that he is withdrawing the petition so far as the first petitioner/first accused is concerned. Accordingly, the Criminal Miscellaneous Petition is dismissed as withdrawn so far as the first petitioner concerned.

7. The learned counsel for the petitioner submitted that the learned trial Judge has failed to consider that the complaint lodged by the defacto complainant was a counter blast complaint as against the accused; that the defacto complainant at the temple festival along with his son and other family relatives had created a problem with the accused 1 and 5 for which, there was a wordy quarrel between them; that when the same was questioned by the accused, there arose wordy quarrel between two groups; that the defacto complainant's son Senthilkumar and four others had attacked with bricks; that the said Selvanathan had preferred a complaint before the first respondent and on that basis, FIR came to be registered in Crime No. 200 of 2011 for the offence punishable under Sections 148, 294(b), 324 and 506(ii) IPC; that the respondent had belatedly filed a charge sheet with respect to the complaint lodged by the fifth accused Selvanathan; that the respondent Police has not followed the guide lines under the Police Standing Orders; that the accused had been convicted only on the basis of the very weak evidence and that the injured witness had not corroborated the other evidence and there were contradictions in the deposition.

8. The learned Additional Public Prosecutor appearing for the State submitted that it is a case and case in counter; that the



dispute arose between two groups with regard to Shiyamalade festival; that the defacto complainant, who was Poosari of the said temple, had claimed more share in the meat from the sacrificed goats as honour; that the trial Court has rightly concluded that due to the said motive, the accused 1 to 9 had picked up a quarrel with P.W.2 and P.W.3 aggressors; that the testimony of P.W.2 and P.W.3 which corroborates the evidence of P.W.1 would clearly prove that all the accused with criminal intention to create riot unlawfully assembled near one Sundarraaj House and restrained P.W.2; that P.W.3 had also deposed that A2 had attacked Pitchaiyan with brick on his right eye and A4 attacked with brick on his body and that therefore, the petitioners are not entitled for any relief as claimed by them and hence, he strongly opposed to grant suspension of sentence.

9. Considering the above facts and circumstances of the case and also the seriousness and gravity of the offence alleged and that the petitioners have been in incarceration from the date of judgment i.e., on 15.06.2022, this Court is not inclined to suspend the sentence imposed at this point of time.

10. Accordingly, the Criminal Miscellaneous Petition is dismissed.

sd/-

16/08/2022

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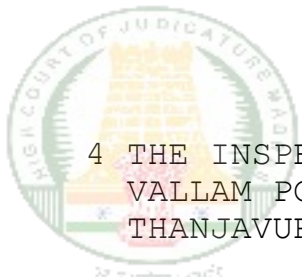
/08/2022

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 2 ADDITIONAL DISTRICT & SESSIONS JUDGE,  
THANJAVUR.
- 2 THE SUPERINTENDENT  
CENTRAL PRISON,  
TRICHY.
- 3 THE OFFICER INCHARGE  
SPECIAL PRISON FOR WOMEN,  
TRICHY.



4 THE INSPECTOR OF POLICE  
VALLAM POLICE STATION,  
THANJAVUR DISTRICT.

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

+1. C.C. to M/S.KARUNAKARAN K.M Advocate SR.No.8590

**ORDER**

**IN**

CRL MP (MD) No.7089 of 2022  
IN

CRL A (MD) No.398 of 2022

Date :16/08/2022

das

SA/VR/SAR.2/18.08.2022/5P/7C