



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

Friday, the Fourteenth day of October Two Thousand and Twenty Two

PRESENT

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

CRL MP(MD) No.8645 of 2022
in
Crl.A.(MD)No.464 of 2022

RAMALINGAM

... PETITIONER/APPELLANT/ACCUSED NO.3

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
THIRUCHULI TALUK POLICE STATION,
VIRUDHUNAGAR.
CRIME NO.116 OF 2013.

... 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 Additional District and Sessions Judge, Virudhunagar by its judgment in SC.No.78 of 2014 dated.29.06.2022 and enlarge him on bail pending disposal of the Criminal Appeal.

PRAYER in Crl.A.(MD)No.464 of 2022 :

Pleased to call for the records of the impugned judgment made in S.C.No.78 of 2014 on the file of the Learned Additional District and Sessions Judge, Virudhunagar dated 29.06.2022 and 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.JEGADEESH PANDIAN M, Advocate for the petitioner and of MR.A.TIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by A3, seeking to suspend the sentence imposed on the petitioner, by judgment and order dated 29.06.2022 passed in S.C.No.78 of 2014 on the file of the Additional District and Sessions Judge, Virudhunagar and to enlarge the petitioner on bail pending disposal of the above appeal.



2. The case of the prosecution is that on 06.08.2013, at about 03.45 p.m., while PW1 was cleaning his goat, A1 is alleged to have come to the said place and he started abusing PW1 in filthy language. At the same time, A1 and his brother, A2 came to the spot with Aruval and iron rod and started attacking PW1 and the deceased indiscriminately. On hearing the noise, PW2, who is the brother of the deceased also came to the spot and A3 (petitioner herein), who is also the brother of A1 and A2, is said to have attacked PW2 with sickle (MO3) and thereby caused injury to PW2.

3. The Court below, while framing the charges, framed only a charge for offence under Section 307 of IPC as against the petitioner (A3). Ultimately, the petitioner was convicted for the offence under Section 307 of IPC and sentenced to undergo seven (7) years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo one year rigorous imprisonment.

4. The learned counsel appearing for the petitioner submitted that the evidence of PW2 was mainly put against the petitioner and whereas the evidence of PW18 contradicts the evidence of PW2. The learned counsel further submitted that the manner, in which the charges were framed in the present case and all the accused persons were tried together, has seriously prejudiced the petitioner and according to the learned counsel appearing for the petitioner, there is mis-joinder of charges and the same has to be gone into in this appeal. The learned counsel further submitted that even as per the prosecution, PW2 went to a private hospital and took treatment and the wound certificate, which was marked as MO.18 shows that there is only one simple injury sustained by him and hence, the ingredients of Section 307 of IPC are not made out in this case. The learned counsel also pointed out various other discrepancies in the evidence of witnesses, which creates strong doubt about the very veracity of the story projected by the prosecution.

5. Per contra, the learned Additional Public Prosecutor opposed the petition mainly on the ground that the injured witness has spoken against the petitioner/appellant and there is nothing to discredit the evidence of PW2 and hence, the Court below has rightly convicted the petitioner for offence under Section 307 of IPC.

6. This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the Order and Judgment passed by the Court below.

7. The grounds that have been raised by the learned counsel appearing for the petitioner require serious consideration and a *prima facie* case has been made out. It will take some more time for this Court to take up the appeal for hearing.



8. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.78 of 2014 dated 29.06.2022 subject to the following conditions:-

- (I) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Aruppukottai, Virudhunagar District;
- (ii) 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
- (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 Court, Aruppukottai, Virudhunagar District, 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/-
14/10/2022

/ TRUE COPY /

/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
VIRUDHUNAGAR.
2. THE JUDICIAL MAGISTRATE,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.



3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
4. THE INSPECTOR OF POLICE,
THIRUCHULI TALUK POLICE STATION,
VIRUDHUNAGAR.
5. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.JEGADEESH PANDIAN, Advocate (SR-11504[I] dated
17/10/2022)

ORDER
IN
CRL MP(MD) No.8645 of 2022
in
Crl.A.(MD)No.464 of 2022
Date :14/10/2022

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USK/SBN/SAR- /18.10.2022/4P/8C