



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

Monday, the Twenty Eighth day of November Two Thousand and Twenty
Two

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PRESENT

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

CRL MP(MD) No.10780 of 2022
IN
CRL A(MD) No.456 of 2022

JANAKI

... APPELLANT/ACCUSED NO.3

Vs

State Rep.by
THE INSPECTOR OF POLICE
TIRUNELVELI TALUK POLICE STATION,
TIRUNELVELI, TIRUNELVELI DISTRICT.
(CRIME NO.125 OF 2016)

... 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 passed by 3rd Additional Sessions Judge / 3rd Additional District Judge, Tirunelveli, Tirunelveli district in S.C No. 116/2017 through a Judgment dated 28.06.2022.

Prayer in CRL A(MD).456/2022 :

To admit this appeal on file and call for records from the Lower Court namely the Learned 3rd Additional Sessions Judge / 3rd Additional District Judge, Tirunelveli, Tirunelveli District in SC.No.116/2017 to set aside the judgment passed in SC.No.116/2017 on the file of the Learned 3rd Additional Sessions Judge / 3rd Additional District Judge, Tirunelveli, Tirunelveli District dated 28.06.2022 and thereby Acquit the above Accused from the charges.

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.RAAMAKRISHNAN KA, Advocate for the petitioner and of MR.ANTONY S.PRABHAKAR, 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 A3 seeking for suspension of sentence imposed on the petitioner, by judgment and order dated

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



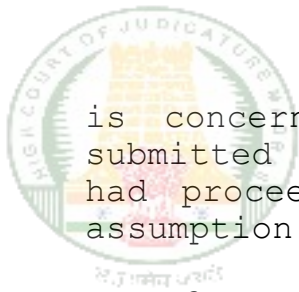
28.06.2022 passed in S.C.No.116 of 2017 on the file of Additional District and Sessions Judge, Tirunelveli, and to enlarge the petitioner on bail pending disposal of the above appeal.

2.The case of the prosecution is that the deceased Packiaraj married A3 (petitioner) and A3 (petitioner) is said to have had illicit relationship with A1. On 28.03.2016, at about 11 p.m., A1 was found along with A3 and the deceased, on coming to know of the same is said to have locked the doors from outside and this created a previous enmity between the parties. In view of the same, the accused persons had conspired with each other and in continuation of the same, on 20.04.2016, at about 05.30 p.m., when the deceased was travelling in a two-wheeler along with his friend PW2, A1, A2 and the juvenile accused intercepted and A1 is said to have attacked the deceased with Aruval (MO1) and as a result, the said Packiaraj died. The body was traced on 21.04.2016 and by then, PW1 had given a complaint, which was registered as a Man missing FIR in Crime No.125 of 2016. Thereafter, the same was altered and investigation was taken up and a final report came to be filed as against seven accused persons. Since one of the accused person was juvenile, separate proceedings were initiated before the Juvenile Justice Board. A1 went absconding and hence, the case was split up and A2 to A7 faced trial before the Court below.

3.The Court below, on considering the facts and circumstances of the case and on appreciation of evidence, came to a conclusion that the prosecution has proved the case beyond reasonable doubts and convicted the petitioner for the offence under Section 120B r/w Section 302 IPC and Section 302 r/w 109 IPC and sentenced her to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months simple imprisonment for the offence under Section 120B r/w Section 302 IPC and life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo three months simple imprisonment for the offence under Section 302 r/w 109 IPC.

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

5.The petitioner has been convicted and sentenced on the ground of conspiracy and abetment. Insofar as conspiracy is concerned, the prosecution has relied upon the evidence of PW8. The conspiracy took place on 03.04.2016 and the incident took place on 20.04.2016. However, the statement of PW8 was recorded only on 01.05.2016 as if she over-heard the accused persons conspiring to do away with the deceased Packiaraj. The learned counsel appearing for the petitioner submitted that the evidence of PW8 is totally unbelievable and except this evidence, there was nothing more available against the petitioner. Insofar as the charge of abetment



is concerned, the learned counsel appearing for the petitioner submitted that there is absolutely no evidence and the Court below had proceeded further to give a positive finding only based on assumption.

6. In the considered view of this Court, taking into consideration the materials available on record, this Court finds that the petitioner has made out a *prima facie* case. There are no bad antecedents against the petitioner and the petitioner has already paid the fine amount and she has already suffered incarceration for nearly five months. It will also take some more time for this Court to take up the appeal for final hearing. In view of the same, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.116 of 2017 dated 28.06.2022 subject to the following conditions:-

- (I) 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 learned Judicial Magistrate No.III, Tirunelveli;
- (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 learned Judicial Magistrate No.III, Tirunelveli, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if she is not able to appear before the trial Court on any day, she 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 her absence, as directed by the trial Court.

sd/-

28/11/2022

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29/11/2022

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



TO

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE NO.III, TIRUNELVELI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI.

4 THE INSPECTOR OF POLICE, TIRUNELVELI TALUK POLICE STATION,
TIRUNELVELI, TIRUNELVELI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.KA.RAAMAKRISHNAN, Advocate (SR-13851[I] dated
28/11/2022)

ORDER

IN

CRL MP(MD) No.10780 of 2022

IN

CRL A(MD) No.456 of 2022

Date :28/11/2022

SM

RS/VR/SAR.(29.11.2022) 4P-8C