



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

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

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PRESENT

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

CRL MP(MD) No.10778 of 2022
IN
CRL A(MD) No.554 of 2022

1 VELUCHAMY @ VELU
2 SATHEESHKUMAR @ SATHEESH
3 SANKAR

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION,
KARUR DISTRICT.
IN CRIME NO.600/2020.

... 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 by the learned Principal Sessions Court/District Court, Karur in SC No.12/2021 dt.10/08/2022 and enlarge the Petitioners/Accused No.1 to 3 on bail,till the disposal of the Criminal Appeal.

PRAYER IN CRL.A(MD).554/2022:

Pleased to admit this appeal on file and call for the records from the Lower Court and set aside the Judgment passed by the Learned Principal Sessions Court / District Court, Karur in S.C.No.12/2021 dated 10.08.2022 by allowing this 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 Mr.B.JAMEEL ARASU, Advocate for M/S.VINAYAK S, Advocate for the petitioner and of Mr.M.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



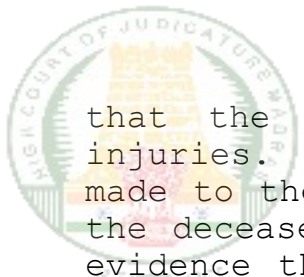
This Criminal Miscellaneous Petition has been filed seeking for suspension of sentence whereby the petitioners were convicted and sentenced by the Court below for the following offences:

Sl.N	Rank of the Accused	Provisions under which convicted	Sentence of imprisonment	Fine amount
1	A1 to A-3	294(b) IPC	To undergo simple imprisonment for 15 days	Fine of Rs.100- and in default to undergo simple imprisonment for one week.
2	A-1 to A-3	302 IPC	To undergo life imprisonment	Fine of Rs.10,000/- in default to undergo simple imprisonment for one year
3	A-1 to A-3	201 IPC	To undergo Rigorous imprisonment for three years	Fine of Rs.1,000/-, in default to undergo simple imprisonment for six months

2. The case of the prosecution is that on 09.07.2020, during the day time, the deceased Vadivel is said to have misbehaved with one Sruthi, who is the accused's maternal uncle's daughter. In continuation to this incident, the accused persons are said to have gone to the house of the deceased at about 9.00 p.m., on the same day and A-1 & A-2 are said to have attacked the deceased with wooden log in the head and A-3 is said to have attacked the deceased all over the body. As a result of the same, the deceased who was taken to the Government Hospital at Trichy succumbed to injuries on 10.07.2020 at about 7.00 p.m.

3. 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 Judgment passed by the Court below.

4. P.W.1 and 2 are the eye witnesses whose evidence has been relied upon by the prosecution to prove the incident. The learned counsel for the petitioners submitted that the incident could not have happened in the manner stated by P.W.1 and 2 in their evidence. To substantiate the same, the learned counsel for the petitioners brought to the notice of this Court the evidence of P.W.3, who was the driver of the vehicle in which the deceased was taken to the hospital. This witness has stated that he informed the Doctor-P.W.7



that the deceased fell down from a two-wheeler and sustained injuries. This witness has further stated that such a statement was made to the Doctor by none other than P.W.2, who is the brother of the deceased and who came along with him in the vehicle. The next evidence that is relied upon is the evidence of P.W.7, who is the Doctor, who treated the deceased and through whom, the Accident Register was marked as Ex.P6. P.W.7 in his evidence has specifically stated that he was informed that the deceased fell down from his two-wheeler and sustained head injuries. Such an entry has also been made in the Accident Register marked as Ex.P6. The learned counsel for the petitioners also brought to the notice of this Court the evidence of P.W.1 wherein she has stated in the cross-examination about the deceased being taken in a two-wheeler to a hospital by one Balasubramanian and Madhan, who were not been examined in this case. P.W.1 has further stated that police came and enquired in the hospital on 10.07.2020. However, P.W.9, who was the Sub-Inspector of Police, who registered the F.I.R., has categorically stated that he received the information from the hospital on 10.07.2020 only at 11.30 p.m. In the cross-examination, he has stated that the information was received on 11.07.2020 at about 7.00 a.m. This statement made by him was contrary to the earlier stand taken as if the complaint was recorded on 10.07.2020 at about 11.30 p.m. He also speaks about the deceased falling down from the two-wheeler.

5. Apart from the above, it is seen from the materials placed before this Court that there are at least three complaints about which the witnesses are speaking and two earlier complaints have been suppressed. P.W.1 herself has given two versions about the incident - one before the incident and the other after the incident.

6. The Postmortem Doctor, who was examined as P.W.8 was not even shown M.O.1 which was the wooden log that was used to attack the deceased. Hence, there is no *prima facie* material to show that the injuries sustained by the deceased could have been caused by M.O.1.

7. In the considered view of this Court, the learned counsel for the petitioners has made out a strong *prima facie* case. The petitioners have already suffered incarceration for the last two and a half months. It is also submitted by the learned Additional Public Prosecutor that there are no criminal antecedents against the petitioners and the fine amount had already been deposited by the petitioners. It will take some more time for this Court to hear this criminal appeal finally.

8. In view of the above, this Court is inclined to suspend the sentence imposed on the petitioners/A-1 to A-3 by the Court below in S.C.No.12 of 2021 dated 10.08.2022 subject to the following conditions:-



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- (I) The petitioners shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Principal Sessions Judge/District Judge, Karur;
- (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 petitioners 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 petitioners shall report before the learned Principal Sessions Judge/District Judge Karur, twice a month ie., on the first and fifteenth working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

sd/-

28/10/2022

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31/10/2022

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

TO

- 1 THE PRINCIPAL SESSIONS JUDGE / DISTRICT JUDGE, KARUR.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 3 THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION, KARUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.VINAYAK S Advocate SR.No.12129

ORDER IN

CRL MP(MD) No.10778 of 2022
IN CRL A(MD) No.554 of 2022
Date :28/10/2022

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SA/VR/SAR.1/31.10.2022/4P/6C

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