



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

Friday, the Seventh day of January Two Thousand and Twenty Two
PRESENT

The Hon`ble Mrs.Justice R.THARANI

WEB COPY

Crl.M.P.(MD)Nos.9317 and 9342 of 2021
in
Crl.A(MD) Nos.463 and 465 of 2021

NAGALAKSHMI

... APPELLANT / ACCUSED NO.3
IN Crl.M.P.(MD)No.9317 of 2021

1 VELUSAMY

2 KRISHNAMOORTHY

... PETITIONERS/ APPELLANTS 1 & 2
IN Crl.M.P.(MD)No.9342 of 2021

Vs

THE STATE REP.BY,

1 THE INSPECTOR OF POLICE

VAIYAMPATTY POLICE STATION, TRICHY DISTRICT.
(CRIME NO.79 OF 2015)

2 VENGATESH

... RESPONDENTS/ COMPLAINANTS
IN Crl.M.P.(MD)No.9317 of 2021

... RESPONDENTS/ RESPONDENTS
IN Crl.M.P.(MD)No.9342 of 2021

(R2 IMPEADED AS PER ORDER DATED
02.12.2021 IN CRL.MP.(MD).Nos.9917 &
9918 OF 2021 IN CRL A(MD)Nos.463 &
465 OF 2021)

Prayer in CRL MP(MD).No.9317/ 2021 in Crl.A(MD) No.463 of 2021:

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 of the rigorous imprisonment for 10 years imposed upon petitioner in S.C.No. 155 of 2018 on the file of the Learned Chief Judicial Magistrate/Assistant Session Judge, Trichy dated. 28.10.2021 pending disposal of the Crl.A.

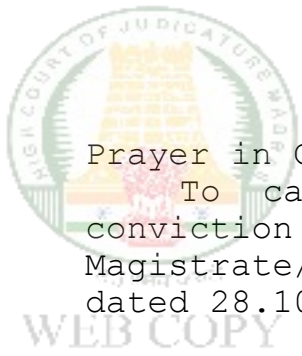
Prayer in CRL MP(MD).No.9342/ 2021 in Crl.A(MD) No.465 of 2021:

To Suspend the sentence passed in Judgment dt.28.10.2021 by the Learned Chief Judicial Magistrate-Assistant Sessions Judge, Trichy in SC.No.155 of 2018 and enlarge the Petitioners on Bail pending disposal of the above Criminal Appeal.

Prayer in Crl.A(MD) No.463 of 2021:

To allow the Appeal and acquit the appellant/accused by setting aside the judgment passed by the learned Chief Judicial Magistrate/Assistant Sessions Judge, Trichy in S.C.No.155 of 2018

<https://hccservicescourts.gov.in/hccservices/>



Prayer in CrI.A(MD) No.465 of 2021:

To call for the records and set aside the sentence and conviction imposed by the Learned Chief Judicial Magistrate/Assistant Sessions Judge, Trichy in S.C.No.155 of 2018 dated 28.10.2021.

Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.P.GANAPATHI SUBRAMANIAN, Advocate for the petitioner in CrI.MP(MD)No.9317 of 2021 and MR.N.MOHAN, Advocate for the Petitioner in CrI.MP(MD)No.9342 of 2021 and of MR.A.M.ANBUNITHI, Additional Public Prosecutor for the 1st respondent and MR.V.IANCHEZHIAN, Advocate for the 2nd respondent in both the petitions, the court made the following order:-

ORDER RESERVED ON 07.12.2021

PRONOUNCED ON : 07.01.2022

These petition have been filed to suspend the sentence imposed by the learned Chief Judicial Magistrate-Assistant Sessions Judge, Trichirappalli, in S.C.No.155 of 2018 dated 28.10.2021, till the disposal of the appeal.

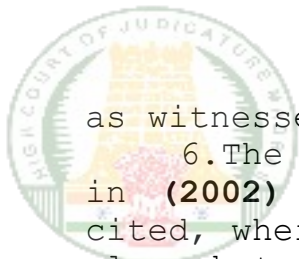
2.The case against the petitioners is that the petitioners and other accused demanded 3 acres of land to be transferred to the name of the third accused and on 28.01.2021, the accused indulged in a wordy quarrel with the deceased. The deceased lodged a complaint and a case has been registered in Crime No. 70 of 2015 for the offences punishable under Sections 147, 294(b), 323, 324 and 355, 427 and 506 (i) IPC. At the instigation of the accused 1 and 2, the third accused lodged a complaint before the All Women Police Station, Manaparai against the deceased as if he misbehaved with her. Before the All Women Police Station, both the parties gave a statement that they are going to compromise the issue. But outside the Police Station, the first accused abused the deceased in filthy language and kicked him. The third accused abused the mother of the defacto complainant in filthy language and all the accused joined together scolded the deceased to commit suicide. Due to depression, the deceased committed suicide by consuming poison. A case in Crime No.79 of 2015 under Section 306 of IPC was registered against the petitioners and others. The case was taken on file in S.C.NO.155 of 2018. The Chief Judicial Magistrate, Trichirappalli acquitted the accuse 4 to 10 and found the accused 1 to 3 guilty under Section 306 IPC and sentenced them to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- each in default to undergo 6 months simple imprisonment. Against the conviction and sentence, the accused 1 and 2 filed CrI.A(MD)No.463 of 2021 and the third accused filed CrI.A(MD)No.465 of 2021. Along with the appeals, the accused 1 and 2 filed CrI.M.P(MD)No.9342 of 2021 and the third accused has filed CrI.M.P(MD)NO.9317 of 2021 seeking suspension of sentence.



3. On the side of the accused 1 and 2, it is stated that there was no overt act against the accused 1 and 2. The third accused is the daughter in law of the deceased. The deceased misbehaved with her and an enquiry was conducted in the All Women Police Station. The name of the accused 1 and 2 did not find place in the First Information Report. Even in the suicide notice, the name of the accused 1 and 2 did not find place. In the suicide note, it is stated that the petitioners have insulted him on 02.12.2015 but the evidence of P.W.1 is that after the occurrence before the Police Station, the deceased was depressed and he was crying throughout the night and died in the morning. But in reality, the deceased died on 04.12.2015 and not on 03.12.2015 and that the suicide note is doubtful regarding the date of occurrence. Uttering certain words are not sufficient enough to prove the case of the prosecution. The All Women Police Station, the regular Police Station and the Taluk Office are situated with the same compound. The occurrence is said to have been taken place on Monday. There is possibility of a crowd before the Taluk Office on Monday. But no independent witness was examined on the side of the prosecution. Change in the date mentioned in the suicide note was taken so lightly by the trial court. Both the accused 1 and 2 were above 60 years. The allegations against them is that they were present at the time of A3 uttering certain words against the deceased.

4. The decision of the trial court in convicting a person for the purpose of moral conviction is not reasonable. Both the accused 1 and 2 are senior citizens and they are having ailments and prayed the sentence to be suspended.

5. On the side of the third accused/the petitioner in Crl.M.P (MD) No.9317 of 2021, it is stated that the defacto complainant is the husband of the third accused. A suicide note was alleged to have been available in the pocket of the deceased, wherein, it is stated that the occurrence is said to have taken place on 02.02.2015 and the deceased was found dead only on 04.02.2015. The discrepancy of the date of occurrence is fatal to the prosecution. The third accused lodged a complaint against the deceased and others before the All Women Police Station. The police warned them. There is no specific allegation against the third accused in the suicide note. All the other accused were acquitted in that case. The ground applicable for acquittal of the accused 4 to 10 is applicable for the third accused also. The third accused is a Government servant working in the Postal Department. There is no possibility for the third accused to establish a petrol bunk in her name. There is no necessity for the third accused to get the property transfer to her name for establishing a petrol bunk. The ingredients for establishing a case under Section 306 IPC are totally lacking in the case. The earlier case registered against the third accused and others ended in acquittal. People in the All Women Police station <https://www.e-mot.gov.in/services> failed to prove the offence and they are not even cited



as witnesses.

6.The judgment of the Hon'ble Supreme Court of India reported in **(2002) 5 SCC page 371** in **Sanju alias Sanjay Singh Sengar** is cited, wherein, it has been held that when there is a quarrel taking place between appellant and deceased in which appellant was said to have told the deceased ''to go and die'' - Deceased found dead tow days later - Held, suicide was not proximate to the quarrel though the deceased was named in the suicide note - Hence suicide was not the direct result of the quarrel when the appellant used abusive language and told the deceased to go and die. Another judgment of the Hon'ble Supreme Court of India reported in **(2001) 9 SCC page 618** in **Ramesh Kumar Vs. State of Chhattisgarh** is cited.

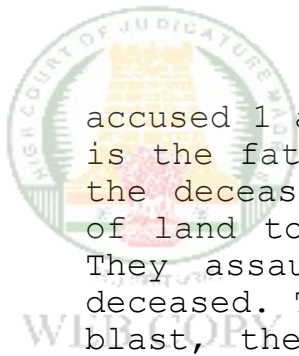
7.The delay in lodging the complaint is fatal to the prosecution. The complaint was lodged only on the next day of occurrence and the delay is fatal and that there are much more points for arguments in the appeal and prayed the sentence to be suspended.

8.On the side of the intervener, it is stated that immediately after the marriage of the third accused with the defacto complainant all the accused demanded 3 acres of land to be transferred to the name of the third accused for starting a petrol bunk. On 28.01.20215, all the accused entered into the house of the deceased and attacked the deceased. The deceased was admitted in the hospital and he lodged complaint and the First Information Report was registered against the petitioners and others. As a counter blast, the third accused has lodged a complaint as if the deceased misbehaved with her. The officials attached to the All Women Police Station tried to compromise the issue. When the deceased and others came out of the Police Station, the accused attacked the deceased with chapel and abused him and abutted him to commit suicide. In a depressed mood, the deceased cried throughout the night and the deceased was found dead in the morning. There was suicide note on the pocket of the deceased indicating the petitioners and others are the cause of suicide.

9.On the side of the intervener, it is stated that the third accused proposed to get a license in the name of somebody else and demanded a land to be transferred to her name. Within a period of 2 ½ months from the date of marriage, they demanded for the transfer of a land and the earlier complaint lodged by the deceased is also a proof regarding the motive. Though the date was wrongly mentioned in the suicide note, day was correctly mentioned. There was no doubt regarding the suicide note. The occurrence has taken place outside the Police Station and there is no possibility of the officials attached to the All Women Police Station to have witnessed the occurrence and prayed the petition to be dismissed.

10.On the side of the prosecution, it is stated that the

<https://hcservices.ecourts.gov.in/hcservices/>



accused 1 and 2 are the relatives of the third accused. The deceased is the father in law of the third accused. All the accused abutted the deceased to commit suicide. The third accused demanded 3 acres of land to be transferred to her name for setting up Petrol Bunk. They assaulted the deceased and a complaint was lodged by the deceased. The deceased took treatment for the injuries. As a counter blast, the third accused lodged a complaint before the All Women Police Station. After the compromise talks, when the deceased came out of the Police Station, all the accused abused him and kicked him. Due to depression, the deceased committed suicide. The name of the accused found place in the suicide note. The prosecution has examined 16 witnesses and marked 18 documents and 2 Materials Objects and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

11.It is seen that the petitioner is in custody for the past 70 days. Considering the period of incarceration and considering that there are some arguable points for consideration in the main appeal and also considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

12.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i)the petitioner is directed to execute a bond for a sum of Rs.10,000/-(Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Chief Judicial Magistrate /Assistant Sessions Judge, Trichy.

(ii)The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iii)The petitioner shall appear before the trial Court daily at 10.30 a.m., until further orders.

sd/-

07/01/2022

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07/01/2022

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



TO

1 THE CHIEF JUDICIAL MAGISTRATE/
ASSISTANT SESSIONS JUDGE,
TRICHY.

2 THE INSPECTOR OF POLICE
VAIYAMPATTY POLICE STATION, TRICHY DISTRICT.

3 THE SUPERINTENDENT OF PRISON
CENTRAL JAIL, TRICHY.

4 THE OFFICER INCHARGE,
SUB JAIL, KARUR.

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

+1 CC to Mr.P.GANAPATHI SUBRAMANIAN, Advocate (SR-140[I] dated
07/01/2022)

+1. C.C. to Mr.N.MOHAN, Advocate SR.No.111.

ORDER IN
Crl.M.P.(MD)Nos.9317 and 9342 of 2021
in
Crl.A(MD) Nos.463 and 465 of 2021
Date :07/01/2022

CM/MRN

MK/VR/SAR.II/07.01.2022/6P/8C