



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

Tuesday, the Twenty Ninth day of November Two Thousand and
Twenty Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.10875 of 2022

IN

CRL A(MD) No.374 of 2022

PANDIAN

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
PATTUKKOTTAI SUB DIVISION,
PATTUKKOTTAI TOWN POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO. 220 OF 2010.

... 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 of Imprisonment imposed in SSC.No.39 of 2012 on the file of the Learned 1st Additional District and Sessions Judge (PCR), Thanjavur dated.22.04.2022 and enlarge the Petitioner/Appellant on bail, pending disposal of the above Criminal Appeal.

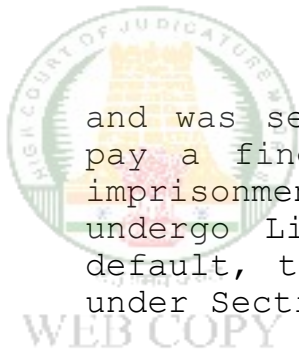
Prayer in CRL A(MD) No.374 of 2022 :

Pleased to call for the records of the court below and set aside the judgment and conviction dated 22.04.2022 made in S.S.C.No.39 of 2012 on the file of the learned 1st Additional District and Sessions Judge (PCR), Thanjavur, and acquit the Appellant/3rd Accused.

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.V.KATHIRVELU, Senior Counsel for M/S.DEENADHAYALAN.S, Advocate for the petitioner and of MR.E.ANTONY SAHAYA PRABAHAR, 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 seeking for suspension of sentence by A3, who was convicted for offence under Section 447 and 302 IPC
<https://www.mhc.tn.gov.in/judis>



and was sentenced to undergo one month simple imprisonment to pay a fine of Rs.300/-, in default, to undergo one week simple imprisonment for offence under Section 447 IPC and was sentenced to undergo Life Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo a further imprisonment of one year for offence under Section 302 IPC.

2.The case of the prosecution is that on 20.05.2010 during mid night, the accused persons trespassed into the property and the deceased Suresh was attacked by A1 with an iron pipe on the back of his head and when he fell down, A3 is said to have cut the said Suresh with a curved knife (Sickle) and thereby caused the death of the deceased.

3.An FIR was registered as against two unknown persons and final report was filed as against four accused persons. A4 was discharged even before the charges were framed and trial was faced by A1 to A3. On completion of trial, A2 was acquitted and A1 to A3 alone were convicted and sentenced.

4.Heard Mr.S.Deenadhayalan, learned counsel for the petitioner/A3 and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor for the State.

5.The entire case of the prosecution hinges upon the evidence of P.W-17 who was examined as an eyewitness in this case. The incident had taken place on 20.05.2010 and even in the complaint lodged by P.W-17, he talks about two unknown persons attacking the deceased. There was no Test Identification Parade conducted in this case and P.W-17 had identified the accused persons in the Court for the first time after nearly nine years. The Court below had given the benefit of doubt to A2. In the present case, the very identity of the accused persons has been raised and the same requires the consideration of this Court.

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. A *prima facie* case has been made out and it is brought to the notice of this Court that the petitioner herein has already suffered incarceration for nearly seven months and there is one previous case against him under Section 110 Cr.P.C and the fine amount has already been paid by the petitioner. It will take some more time for this Court to take up the criminal appeal for hearing.

8.In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.S.C.No.39 of 2012 dated 22.04.2022 subject to the following conditions:-



(i) The petitioner shall execute a 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 I-Additional District and Sessions Judge(PCR), Thanjavur;

(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 eight(8) weeks. After completion of the said period, the petitioner shall report before the I-Additional District and Sessions Judge(PCR), Thanjavur, 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/-
29/11/2022

/ TRUE COPY /

01/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),
THANJAVUR.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
PATTUKKOTTAI SUB DIVISION,
PATTUKKOTTAI TOWN POLICE STATION,
THANJAVUR DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-13973[I] dated 30/11/2022)

ORDER IN
CRL MP(MD) No.10875 of 2022
IN
CRL A(MD) No.374 of 2022
Date :29/11/2022

pjl

USK/SSS/SAR-III/01.12.2022/3P/6C
<https://www.mhc.tn.gov.in/judis>