



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Twentieth day of September Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P. (MD) No.11064 of 2022

in

CRL.A. (MD) No.398 of 2022

1 VIGNESH
2 RAJA @ CHINNARAJA
3 JANAKIRAMAN
4 VIJAYALAKSHMI
5 SATHIYARAJ

... PETITIONERS / APPELLANTS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
VALLAM POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.199 OF 2011.

... 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 passed in S.C.No. 145 of 2013, Dated 15.06.2022 on the file of the learned 2nd Additional District and Sessions Judge, Thanjavur pending disposal of the above said Crl.A.

Prayer in CRL.A. (MD) No.398 of 2022:

To call for the records pertaining to the order made in S.C.No.145 of 2013 dated 15.06.2022 on the file of learned 2nd Additional District and Sessions Court, Thanjavur and set aside the same by allowing above 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.J.SULTHAN BASHA, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned II Additional District and Sessions Judge, Thanjavur, in S.C.No.145 of 2013, dated 15.06.2022, and

<https://www.hcma.org.in/tile>



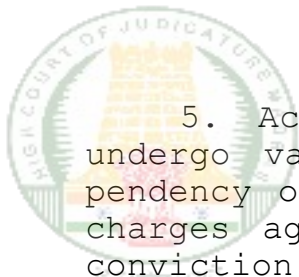
2.The case of the prosecution is in brief:-

There was previous enmity between the defacto complainant group and the accused group over receiving the first honour in Siyamala Devi Amman Temple. In pursuance of the above said enmity, on 13.06.2011, at about 04.00 p.m, when the injured Senthilkumar was proceeding to his sister's house, all the 9 accused persons assembled with an intention to cause assault. The accused No. 6 to 9 abused him in filthy language. When that was objected by the defacto complainant namely, Shanmugam, the third accused caused assault to Shanmugam with brick. The second accused No.2 & 4 caused assault with bricks on his chest region. In the above said occurrence, the injured namely, Manimegalai, Kayalvizhi, Rameswari were assaulted by the accused No.7 & 8 with bricks. The first accused caused assault to Pitchaian with brick on his back side of the head. Because of the severe injury suffered by the above said Pitchaian at the hands of the first accused, he died on 19.06.2011. On the basis of the complaint, investigation was undertaken and final report was filed. The case was tried by the Trial Court.

3.During the course of trial process, on the side of the prosecution 19 witnesses were examined and 15 documents marked. Apart from, 1 Material Object. On the side of the accused, no document and no witness were exhibited.

4.By the judgment, dated 15.06.2022, found the petitioners guilty, convicted and sentenced them as detailed below:-

Accused	Convicted under Section	Sentence of Imprisonment/fine imposed
Accused Nos.1 to 4 & 6, 7 & 9	147 IPC	Fine Rs.1000/ each in default one month Simple Imprisonment
Accused Nos.1 to 4 & 6, 7 & 9	341 IPC	Fine Rs.500/- each in default two weeks Simple Imprisonment
Accused Nos.2, 3, 4 & 7	324 IPC	Two months Simple Imprisonment
Accused No.1	299 r/w 304 IPC	Ten years Rigorous Imprisonment and Fine Rs.10,000/- in default Six months Simple Imprisonment
Accused Nos.2 to 4, 6, 7 & 9	299, 149 r/w 304 IPC	Ten years Rigorous Imprisonment and Fine Rs.10,000/- each in default six months Simple Imprisonment



5. Accused No.1 & 3 were also convicted and sent to undergo various period of punishment as noted above. During the pendency of the trial process, the accused No.5 & 8 died. So, the charges against them abated. Aggrieved by the said judgment of conviction and sentence, the petitioners/Accused No.2,4,6,7 & 9 have preferred the above appeal. Pending the appeal, this petition has been filed.

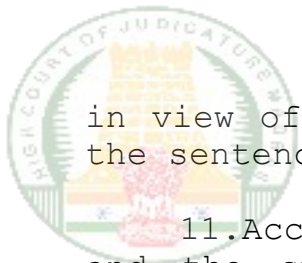
6.The earlier application that was filed by the petitioners came to be dismissed, by this Court, on 16.08.2022 on the ground that the offence is serious in nature. This is the second suspension of sentence petition.

7.The learned counsel for the petitioners would submit that there was no big enmity between the defacto complainant party and the petitioners. Even as per the FIR and other statement of the witnesses, only 4 persons names were mentioned. But, during the course of investigation, 9 persons have been added without any specific overt act. He would further submit that there was no big enmity between these 2 groups of people except the motive with regard to receiving of first honour in the temple festival.

8.The learned Additional Public Prosecutor would submit that because of the above said previous enmity only all the accused joined together and caused severe assault. Because of the severe injury suffered by the deceased, death occurred. Moreover, the judgment is of only recent date.

9.As mentioned above, the application was dismissed only on 16.08.2022. Within a short time, the second application came to be filed. No doubt, there was no big enmity between these 2 groups of people over the above said receiving of first honour in the temple festival. On the particular date of occurrence, there was sudden fight between them. In respect of the very same occurrence, counter case has also been registered in Crime No.200 of 2011. since it is a case and case in counter, simultaneous trial was undertaken. But, the counter case has been tried in SC.No.67 of 2014. Wherein, the fifth accused namely, Selvanathan is the defacto complainant and the ninth accused namely, Sathiyaraj is P.W.2. It appears that in both cases, date and time stated to be the same. In the case in counter case, the Investigating Officer ought to have undertaken the investigation in both the matters and during the course of investigation, the aggressors were not fixed. Then, they ought to have filed final reports against both parties. Reading of both the judgments shows that no reference has been made with regard to the counter case. How the investigation has been undertaken in such a manner is a matter for consideration in the appeal.

10.In the facts and circumstances of the case, it is seen that there was no premeditation. There was sudden fight between 2 groups. Wherein, the quality of investigation process is now, under challenge. So,



in view of the above said issue, this Court is inclined to and the sentence pending disposal of the appeal.

11. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Thanjavur, and on further condition that the petitioners shall appear before the said Court **once in a week at 10.30 a.m.** pending appeal.

sd/-

20/09/2022

/ TRUE COPY /

21/09/2022

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

TO

1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR.

2 THE INSPECTOR OF POLICE
VALLAM POLICE STATION, THANJAVUR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

4 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
TRICHY.

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

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-10239[I] dated
20/09/2022)

ORDER

IN

CRL.M.P. (MD) No.11064 of 2022
in

CRL.A. (MD) No.398 of 2022

Date : 20/09/2022

MK/SBN/SAR.III/21.09.2022/4P/7C