



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

Friday, the Sixteenth day of December Two Thousand and Twenty Two

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice SUNDER MOHAN

CRL MP(MD) No.11390 of 2022

IN

CRL A(MD) No.577 of 2022

MURUGAN @ THIRUMURUGAN

... PETITIONER/APPELLANT

Vs

State Rep.by
THE SUB INSPECTOR OF POLICE
KUNDRAKUDI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.179 OF 2012.

... RESPONDENT/RESPONDENT

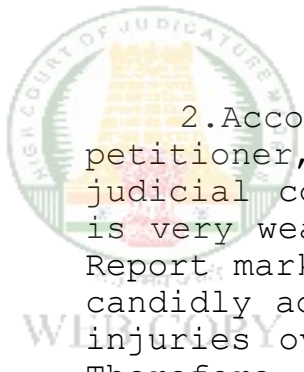
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence of Imprisonment imposed by the Learned Additional District and Sessions Judge, Additional District Court, Sivagangai made in Sessions Case.No.56 of 2014 by the Judgment dt.28.4.2022 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD).577/2022 :

To call for the records and set aside the judgment and conviction dated 28.04.2022 by Learned Additional District and Sessions Judge, Additional District court, Sivagangai in S.C.No.56 of 2014 and acquit the Appellant.

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.DEVAKI A, Advocate for the petitioner and of MR.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The petitioner, who is the first accused/A1 in S.C.No.56 of 2014, was found guilty of offence under Sections 120-B r/w 302 IPC, being sentenced to undergo life imprisonment, is before this Court for suspension of sentence.



2. According to the learned counsel appearing for the petitioner, the trial Court has erred in relying upon the extra-judicial confession alleged to have been given before P.W.5, which is a very weak piece of evidence. Further more, the First Information Report marked as Ex.P.1, itself is highly doubtful, since P.W.1 had candidly admitted that when he saw the deceased brother with severe injuries over the body, the police was already there in the spot. Therefore, Ex.P.1, could not be the First Information Report, since the possibility of manipulating the information is high, there is grave doubt in the case of the prosecution, in which, the learned trial Judge has failed to appreciate. Hence, sought for suspension of sentence.

3. This Court, on perusing the records, finds that it is a case of circumstantial evidence where the deceased was found with multiple injuries in an isolated place and after receipt of the complaint from the brother of the deceased, the police has taken up the investigation and in the course of investigation, they have found that the petitioner along with 3 others have conspired to murder the deceased. Pursuant to the said conspiracy, the deceased Thirunavukarasu was called over phone to the residence of the third accused to drink liquor and thereafter, they have taken the deceased to nearby graveyard in N.G.O Colony, Karaikudi with common intention to murder the deceased and attacked him with wooden log and also stabbed him all over the body causing death.

4. The trial Court, on appreciating the evidence, has acquitted two of the accused and convicted the petitioner alleging that the name of the petitioner was found in the FIR and the confession statement given to the VAO is reliable. The contentions of the learned counsel for the petitioner/appellant are to be considered at the time of final hearing. Prima facie, this Court finds that the cogent discussion of the evidence by the trial Court cannot be considered for granting suspension of sentence, since the judgment of the trial Court was passed only on 28.04.2022, if the appeal is not listed for final hearing within a period of six months, liberty is given to the petitioner herein to revive the petition for suspension of sentence.

5. In view of the above, this petition is dismissed.

sd/-

16/12/2022

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/01/2023

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

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TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
ADDITIONAL DISTRICT COURT, SIVAGANGAI DISTRICT.

2 THE SUB INSPECTOR OF POLICE, KUNDRAKUDI POLICE STATION,
SIVAGANGAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.P.PRABHAKARAN, Advocate SR.No.15253[I]

ORDER

IN

CRL MP(MD) No.11390 of 2022

IN

CRL A(MD) No.577 of 2022

Date :16/12/2022

RS/BUC/SAR.(02.01.2023) 3P-6C