



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

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

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PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP (MD) Nos.11550 & 9251 of 2022
IN
CRL A (MD) Nos.582 & 489 of 2022

NANTHAKUMAR

... APPELLANT/ACCUSED No.3
IN CRL.MP (MD) .11550/2022
IN CRL.A (MD) .582/2022

HEMARAJ

... PETITIONER/APPELLANT/
ACCUSED No.2
IN CRL.MP (MD) .9251/2022
IN CRL.A (MD) .489/2022

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
VIRALIMALAI POLICE STATION,
PUDUKKOTTAI DISTRICT.
(IN CRIME NO.311/2020)

... RESPONDENT/COMPLAINANT
IN CRL.MP (MD) .11550/2022
IN CRL.A (MD) .582/2022

... RESPONDENT/RESPONDENT/
COMPLAINANT
IN CRL.MP (MD) .9251/2022
IN CRL.A (MD) .489/2022

COMMON PRAYER IN CRL.MP (MD) .11550 & 9251/2022:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Execution of Sentence of imprisonment passed in the Judgment of conviction and sentence in SC No.10/2021 dt.12.07.2022 on the file of the learned Principal District and Sessions Court, Pudukkottai and enlarge the petitioner on Bail, pending disposal of the main Criminal Appeal.

**Prayer in CRL.A(MD).582/2022:**

Pleased to call for the records pertaining to the conviction and sentence passed in S.C.No.10 of 2021 on the file of the learned Principal District & Sessions Court, Pudukkottai dated 12.07.2022 and set-aside the same as illegal.

Prayer in CRL.A(MD).489/2022:

Pleased to admit this appeal on file, to call for the records from the lower court in S.C.No.10/2021 on the file of Principal District and Sessions Judge, Pudukkottai and set aside the judgement dated 12.07.2022 by acquitting the accused and by allowing the Appeal.

COMMON ORDER : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.YAMUNA.R, Advocate for the petitioner in CRL.MP(MD).11550/2022 and Mr.K.JEYAMOHAN, Advocate for the Petitioner in CRL.MP(MD).9251/2022 and of Mr.A.THIRUVADIKUMAR, Additional Public Prosecutor on behalf of the Respondent in both Petitions, the court made the following order:-

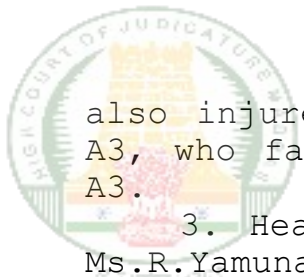
COMMON ORDER

[Order of the Court was made by **N.ANAND VENKATESH, J.**]

A2 and A3 are the petitioners herein who are seeking for suspension of sentence. The petitioners were ranked as A2 and A3 before the Court below and they were convicted and sentenced in the following manner.

Sl. No.	Rank of the accused	Conviction offence Section	for under	Sentence/Punishment
1.	A2	394 IPC		10 years Rigorous Imprisonment and a sum of Rs.5,00,000/- to be paid as compensation, in default, to undergo three years simple imprisonment.
2.	A3	394 r/w 397 IPC		Life Imprisonment and a sum of Rs.5,00,000/- to be paid as compensation, in default, to undergo five years simple imprisonment.

2.The case of the prosecution is that the defacto complainant was working in a company and on 25.05.2020 at about 11.20 p.m., she was returning back from her office. At that point of time, the accused persons came in a two wheeler and threatened the defacto complainant at knifepoint and robbed a pair of ear stud, nose stud and also the mobile phone of the defacto complainant and she was



also injured. Totally there are three accused persons, viz. A2, A3, who faced trial and the petitioners herein are ranked as A2 & A3.

3. Heard Mr.K.Jeyamohan, learned counsel appearing for A2 and Ms.R.Yamuna, learned counsel appearing for A3 and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor appearing for the State.

4.The entire case of the prosecution hinges upon the evidence of P.W-1. The learned counsel for the petitioners submitted that the very identity of the petitioners is seriously questioned in this case. To substantiate the said submission, it was brought to the notice of this Court that P.W-1 had the advantage of seeing the photos before the Test Identification Parade was conducted. Hence, the very identity of the accused persons was only based on what was shown in the newspapers and television. That apart, the learned counsel for the petitioners also brought to the notice of this Court certain other discrepancies with regard to the confession and recovery in this case.

5. Taking into consideration the facts and circumstance of the case and also the fact that there are no previous cases against the petitioners and the petitioners have already suffered incarceration for nearly six months, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.10 of 2021 dated 12.07.2022 subject to the following conditions:-

(i) The petitioner/A2 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 Judicial Magistrate, Illuppur;

(ii) The petitioner/A3 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 Principal District and Sessions Judge, Pudukkottai ;

(iii) 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

(iv) The petitioners/A2&A3 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 petitioners viz. A2 & A3 shall report before the learned Judicial Magistrate, Illuppur and the learned Principal District and Sessions Judge, Pudukkottai, respectively, on the first working day of every month at 10.30 a.m. until the disposal of the criminal appeals and



if they are not able to appear before the trial on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and they shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

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sd/-
29/11/2022

/ TRUE COPY /

02/12/2022

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

TO

- 1 THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
PUDUKKOTTAI.
- 2 THE JUDICIAL MAGISTRATE,
ILLUPPUR.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 5 THE INSPECTOR OF POLICE
VIRALIMALAI POLICE STATION,
PUDUKKOTTAI DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S. YAMUNA R Advocate SR.No.14154

+1. C.C. to M/S.M.RAJARAJAN, Advocate SR.No.13986

ORDER

IN

CRL MP (MD) Nos.11550 & 9251 of 2022
IN

CRL A (MD) Nos.582 & 489 of 2022

Date :29/11/2022

PJL

SA/VR/SAR.1/02.12.2022/4P/9C