



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

Friday, the Twenty Eighth day of October Two Thousand and Twenty Two

PRESENT

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The Hon`ble Mrs.Justice J.NISHA BANU
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

Crl.M.P(MD)Nos.11554, 11558 & 11552 of 2022
in
Crl.A(MD)Nos.447, 455 & 485 of 2021

1 M.RAJAMANICKAM
2 A.SANKAR
3 V.MANIVEL

... PETITIONERS/APELLANTS
/ACCUSED NOS. 1, 3 & 4
in CRL MP(MD)No. 11554 of 2022

1. MOHAN @ NEELAMEGAM
2. PRABHU
3. MOHANRAJ
4. NEELAMEGAM @ JAMBULINGAM ... 1 TO 4 PETITIONERS/1 TO 4 APELLANTS
/ ACCUSED NOS.6,7,9,10
IN CRL MP(MD)No. 11558/ 2022

1. VADIVEL
2. DHARMAR @ DHARMARAJ
3. SAMPATH

... PETITIONERS/APELLANTS
/ACCUSED NOS. 2, 5, & 8
IN CRL MP(MD)No.11552/ 2022

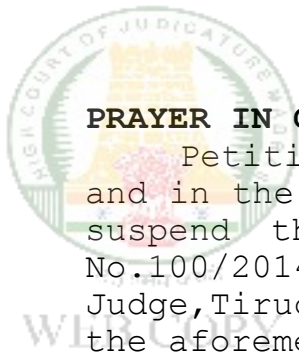
Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
EDAMALAIPATTI PUDUR POLICE STATION,
TRICHIRAPPALLI.
CRIME NO.306/2012

... RESPONDENT/RESPONDENT/COMPLAINANT
IN CRL MP(MD)No.11554/2022

THE STATE REP BY,
THE INSPECTOR OF POLICE
EDAMALAIPATTI PUDUR POLICE STATION,
TRICHIRAPPALLI.
CRIME NO.306/2013

... RESPONDENT/RESPONDENT/COMPLAINANT
IN CRL MP(MD)Nos.11558, 11552/2022

**PRAYER IN CRL MP(MD)No.11554 of 2022 in CRL A(MD)NO.447 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 imposed on the petitioners herein in SC No.100/2014 on the file of III Addl.District and Sessions Judge, Tiruchirapalli by the judgement dated 30/09/2021 and enlarge the aforementioned petitioners on bail pending disposal.

Prayer in Crl.A(MD)No.447 of 2021:

To call for the records and set aside the judgment dated 30.09.2021 passed in S.C.No.100 of 2014 on the file of the Learned III Additional District & Sessions Judge, Tiruchirapalli in the interest of justice.

Prayer in CRL MP(MD) . 11558/ 2022 in Crl.A(MD)No.455 of 2021:

To suspend the sentence passed by the judgement dated.30/09/2021 made in SC No.100/2014 on the file of III Additional District and Sessions Court, Tiruchirapalli and enlarge the petitioners on bail pending disposal of the above appeal.

Prayer in Crl.A(MD)No.455 of 2021:

To call for the records relating to the judgment dated 30.09.2021 passed in S.C.No.100 of 2014 on the file of the Learned III Additional District & Sessions court, Tiruchirapalli and set aside the conviction and sentence imposed against the appellants / accused and allow above appeal by acquitting the accused.

Prayer in CRL MP(MD) . 11552/ 2022 in Crl.A(MD)No.485 of 2021:

To suspend the substantial sentence passed against the petitioners/appeallants(A2,A5 and A8) in SC No.100/2014 on the file of 3rd Additional Sessions Judge, Trichirappalli dated.30/09/2021 and enlarge them on bail.

Prayer in Crl.A(MD)No.485 of 2021:

To admit the appeal preferred by this Appellants and call for the records from the Lower Court in S.C.No.100 of 2014 on the file of the Learned III Additional District Sessions Judge, Tiruchirapalli dated 30.09.2021 and set aside the conviction and sentence passed against the appellants above named.

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 Mr.C.MUTHU SARAVANAN, Advocate for the petitioner IN CRL MP(MD)No.11554 OF 2022 and of MR.R.GANDHI, Advocate for the petitioner in CRL MP(MD)No.11558 of 2022 and of MR.N.ANANTHAPADMANABHAN, Advocate for M/S.APN LAW ASSOCIATES for the petitioner in CRL MP(MD)No.11552 of 2022 and of and of MR.E.ANTONY SAHAYA PRABHAKAR, Additional Public Prosecutor on behalf of the Respondent in all the petitions, the court made the following order:-



These Criminal Miscellaneous Petitions have been filed for suspension of sentence imposed on the petitioners in S.C.No.100 of 2014, who were convicted and sentenced by the Court below in the following manner:

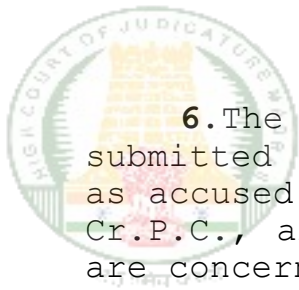
- (a) life imprisonment for the offence under Section 302 r/w 120 IPC, and to pay a fine of Rs.5,000/- in default to undergo 2 years simple imprisonment;
- (b) two years Rigorous imprisonment for the offence under Section 148 r/w 149 IPC;
- (c) life imprisonment for the offence under Section 302 r/w 149 IPC and to pay a fine of Rs.5,000/- in default to undergo two years simple imprisonment; and
- (d) life imprisonment for the offence under Section 307 r/w 149 IPC.

2.The case of the prosecution is that on 26.06.2013, at about 6.30 p.m., when the third accused and other persons were travelling in an auto-rickshaw, they were overtaken by two persons belonging to Ramji Nagar in Motorbike. The same was questioned and there was a wordy quarrel between the parties. As a consequence of the same, a motor cycle is said to have been damaged, which resulted in registration of FIR in Crime No.178 of 2013 at Somarasampettai Police Station, Trichirappalli. In retaliation to the said incident, one Rajendran, belonging to Ramji Nagar, is said to have been assaulted and based on the complaint, yet another FIR came to be registered in Crime No.305 of 2013 by the respondent police.

3.Due to the above enmity, on 27.06.2013 at about 2.45 a.m., the deceased Subban @ Balasubramanian is said to have been attacked by deadly weapons by the accused persons and P.W.1 also sustained injury in the said incident.

4.Heard the learned counsel appearing on either side.

5.The main ground that was urged by the learned counsel for the petitioners/appellants is that the injured witness P.W.1, who underwent treatment before P.W-16 and through whom the Accident Register (Ex.P32) was marked, does not state about the multiple accused persons attacking the deceased and P.W-1. There is also evidence to show the presence of the police even before the FIR was registered. Therefore, the main thrust of the argument of the learned counsel for the petitioners/appellants is that the genesis of the case of the prosecution is doubtful and the accused persons have been subsequently added after deliberation and that is the reason why there is also a delay in the express FIR residing the Magistrate Court.



6. The learned Additional Public Prosecutor, on inst. ^s, submitted that only insofar as Sankar and Sampath, who are arrayed as accused Nos.3 and 8, there are two petty cases under Sections 110 Cr.P.C., and 294(b) and 188 IPC. Insofar as other accused persons are concerned, there are no previous cases.

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7. Taking into consideration the facts and circumstances of the case and the *prima facie* case made out by the learned counsel appearing on behalf of the petitioners and also the fact that the petitioners have already suffered incarceration for more than one year and it may not be possible for this Court to take up the main appeal in the immediate future, this Court is inclined to suspend the sentence imposed on the petitioners by the Court below in S.C.No.100 of 2014, dated 30.09.2021 subject to the following conditions:-

- (I) The petitioners shall execute a bond for a sum of Rs.25,000/-, each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned III Additional Sessions Judge, Tiruchirappalli;
- (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 petitioners shall report before the learned III Additional Sessions Judge, Tiruchirappalli, on the first and fifteenth working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they 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 their absence, as directed by the trial Court.

sd/-

28/10/2022

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31/10/2022

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

TO

- 1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUCHIRAPPALLI.
- 2 THE INSPECTOR OF POLICE, EDAMALAIPATTI PUDUR POLICE STATION, TRICHIRAPPALLI.



3 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.C.MUTHUSARAVANAN, Advocate (SR-12064[I] dated 28/10/2022)

+1 CC TO M/S.R.GANDHI, Advocate (SR-12048[I] dated 28/10/2022)

+1 CC TO M/S.APN LAW ASSOCIATES (SR-12047[I] dated 28/10/2022)

ORDER IN

Crl.M.P(MD)Nos.11554, 11558 & 11552 of 2022
in Crl.A(MD)Nos.447, 455 & 485 of 2021
Date :28/10/2022

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RS/VR/SAR.1(31.10.2022) 5P-8C