



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

Friday, the Second day of December 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.12368 of 2022  
in  
Crl.A.(MD) No.639 of 2022

SOLAI @ KUDUKUDU

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,  
THE INSPECTOR OF POLICE,  
PALLATHUR POLICE STATION,  
SIVAGANGAI DISTRICT.  
(CRIME NO.83/2017).

... 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 execution of sentence by granting bail in SC No.76/2019 on the file of the Principal Sessions Judge, Sivagangai, dated. 22/7/2022, till the disposal of Criminal Appeal.

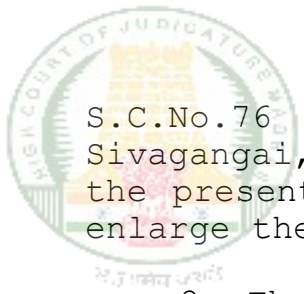
**Prayer in Crl.A. (MD) No.639 of 2022 :**

Pleased to admit this appeal on file to call for the records from the lower court in S.C.No.76/2019 on the file of the Principal District and Sessions Court, Sivagangai, Sivagangai District and set aside the Judgment dated 22.07.2022 by acquitting the accused and by allowing the 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 M/S.RAGAVENTHRE S, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, 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.)**

The petitioner herein, who was convicted for offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay fine of Rs.5,000/-, in default to undergo simple imprisonment for two months, by judgment and order dated 22.07.2022 passed in



S.C.No.76 of 2019 on the file of the Principal Session Judge, Sivagangai, has filed the above criminal appeal. Pending appeal, the present petition has been filed to suspend the sentence and to enlarge the petitioner on bail.

2. The case of the prosecution is that the petitioner and the deceased are brothers and there was a subsisting property dispute. On 12.08.2017 at about 6.30 p.m., the deceased was sitting in a bridge and at that point of time, the petitioner came to that place and there was a wordy quarrel regarding the property dispute. As a consequence, the petitioner is said to have pushed down the deceased and the deceased fell down in a ditch, which was 2½ feet from the bridge. The deceased sustained injuries in his neck and he was admitted in the hospital and ultimately he succumbed to the injuries on 20.08.2022.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

4. The entire case of the prosecution hinges upon the evidence of P.W.1, who is the brother of the deceased, P.W.3, who is the mother of the deceased and P.W.10, who is the paternal aunt of the deceased. The learned counsel for the petitioner submitted that the earliest version that was given to the Doctor, who gave the first aid to the deceased and was examined as P.W.6, shows that the deceased on his own had fallen from the road. Hence, according to the learned counsel for the petitioner, the petitioner has been falsely roped in this case by taking advantage of the family dispute. An alternate submission was also made to the effect that even if the case of the prosecution is taken to be proved, this case will fall within the first exception to Section 300 IPC.

5. Taking into consideration the facts and circumstances of the case and also the fact that a prima facie case has been made out, there are no bad antecedents against the petitioner, fine amount has already been paid and that there are arguable points, this Court is inclined to consider suspension of sentence for the petitioner. There are various grounds that have to be taken into consideration in the present criminal appeal and it will take some more time for this Court to hear the appeal finally.

6. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.76 of 2019 dated 22.07.2022 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 Judicial Magistrate, Karaikudi.



(ii) The sureties shall affix their photographs and Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in fortnight 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/-  
02/12/2022

/ TRUE COPY /

02/12/2022  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

1. THE PRINCIPAL SESSIONS JUDGE, SIVAGANGAI.
2. THE JUDICIAL MAGISTRATE, KARAIKUDI.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,  
SIVAGANGAI DISTRICT.
4. THE INSPECTOR OF POLICE,  
PALLATHUR POLICE STATION,  
SIVAGANGAI DISTRICT.
5. THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.RAGAVENTHRE, Advocate ( SR-14268[I] dated  
02/12/2022 )

ORDER IN  
CRL MP(MD) No.12368 of 2022  
in  
Crl.A.(MD) No.639 of 2022  
Date :02/12/2022

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USK/SSS/SAR-I/02.12.2022/3P/8C  
<https://www.mhc.in.gov.in/judis>