



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)



Thursday, the First 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.M.P.(MD)No.11929 of 2022

in

Crl.A.(MD)No.540 of 2021

DURAIRAJ

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY

THE INSPECTOR OF POLICE

SIVAGANGAI TOWN POLICE STATION,

SIVAGANGAI DISTRICT.

CRIME NO.266 OF 2014.

... 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.6 of 2016 dt.20.11.2021 on the file of the Principal District and Sessions Court, Sivagangai, Sivagangai District pending disposal of the above Criminal Appeal.

Prayer in Crl.A.(MD)No.540 of 2021:

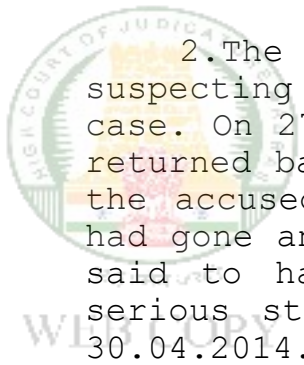
To admit this appeal on file, to call for the records from the lower court in S.C.No.6/2016 on the file of the Principal District Sessions Court, Sivagangai, Sivagangai District and set aside the judgment dated 20.11.2021 by acquitting the accused and by allowing the appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.V.KATHIRVELU, SENIOR COUNSEL for M/S.PRABHU K, Advocate for the petitioner and of MR.A.Thiruvadikumar, 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, who was convicted for an offence under Section 302 IPC and sentenced to undergo Life Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo three months Simple Imprisonment has filed this petition seeking for suspension of sentence.

<https://www.mhc.tn.gov.in/judis>



2.The case of the prosecution is that the petitioner is suspecting the fidelity of his wife, who is the deceased in this case. On 27.04.2014 at about 1.30 p.m, the deceased is said to have returned back home after attending the function of the relative and the accused seems to have questioned the deceased as to where she had gone and there was a wordy quarrel. As a sequel, the accused is said to have attacked the deceased with a knife and caused her serious stab injuries. The deceased succumbed to the injuries on 30.04.2014.

3.Heard Mr.K.Prabhu, learned counsel for the petitioner and Mr.A.Thiruvadikumar, learned Additional Public Prosecutor for the State.

4. The prosecution mainly relied upon the eyewitness account of P.W-1 and P.W-2 and also the dying declaration of the deceased marked as Ex.P20. P.W-1 and P.W-2 who were the neighbours turned hostile and they did not support the case of the prosecution. The Court below mainly relied upon the dying declaration of the deceased and the evidence of the doctor, who gave the postmortem certificate and came to the conclusion that the prosecution has proved the case beyond reasonable doubt.

5.We have carefully went through the dying declaration and it is seen that there was a wordy quarrel between the accused and the deceased and both of them seem to have had a physical altercation and ultimately the deceased is said to have been stabbed with the knife. We carefully went through the evidence of the postmortem doctor P.W-13 and going by the injuries that have been noted, it is seen that there was a fight between the deceased and the accused person which ended in the deceased being stabbed with the knife. The deceased was admitted in the hospital on 27.04.2014 and she was recovering. However, she succumbed to injuries on 30.04.2014.

6. Going by the materials available on record and on a prima facie consideration of the case, we find that even if the case is taken to be proved, it can be brought within the first exception to Section 300 IPC. The learned Additional Public Prosecutor submitted that there are no bad antecedents against the petitioner and the petitioner has also paid the fine amount. It will take some more time for this Court to take up the criminal appeal for hearing on merits.

7.In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.6 of 2016 dated 20.11.2021 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 No.I, Sivagangai;



(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 Passbooks to ensure their identity; and

(iii) The petitioner 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 petitioner shall report before the Judicial Magistrate No.I, Sivagangai, on the first working day of every month 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/-
01/12/2022

/ TRUE COPY /

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

TO

- 1 THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI, SIVAGANGAI DISTRICT.
- 2 THE JUDICIAL MAGISTRATE NO.I,
SIVAGANGAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
SIVAGANGAI DISTRICT.
- 4 THE INSPECTOR OF POLICE
SIVAGANGAI TOWN 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.K.PRABHU, Advocate (SR-14126[I] dated 01/12/2022)

ORDER
IN
Crl.M.P. (MD) No.11929 of 2022
in
Crl.A. (MD) No.540 of 2021
Date :01/12/2022

PJL

MK/SSS/SAR I/02.12.2022/3P/8C

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