



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

Wednesday, the Thirtieth day of November 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)Nos.11940, 11985, 11990, 11988 and 11987 of 2022
in

Cr1.A(MD)Nos.437 and 392 of 2022

RAJAMUTHU	... APPELLANT/ACCUSED NO.5 IN CRL MP(MD) NO.11940/2022 IN CRL.A.(MD) NO.437/2022
POOVAMMAL	... PETITIONER/ACCUSED IN CRL MP(MD) NO.11985/2022 IN CRL.A.(MD) NO.392/2022
JOSEPHRAJA	... PETITIONER/ACCUSED IN CRL MP(MD) NO.11990/2022 IN CRL.A.(MD) NO.392/2022
PAUL @ PAULMANOHARAN	... PETITIONER/ACCUSED IN CRL MP(MD) NO.11988/2022 IN CRL.A.(MD) NO.392/2022
VEDAMANICKAM @ S.R.MANI	... PETITIONER/ACCUSED IN CRL MP(MD) NO.11987/2022 IN CRL.A.(MD) NO.392/2022
Vs	
THE STATE REP. BY, THE INSPECTOR OF POLICE, SAYALKUDI POLICE STATION, RAMANATHAPURAM DISTRICT. (IN CR NO.110/2015).	... RESPONDENT/COMPLAINANT IN ALL THE PETITIONS

Prayer in CRL MP(MD) NO.11940/2022 in Cr1.A.(MD) No.437 of 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 sentence and release the appellant on bail pending disposal of this Criminal Appeal before this Hon'ble Court against



the Judgment in SC No.50/2017 on the file of the Fast Track Mahila Court, Ramanathapuram dated.21.04.2022 and release the appellant on bail till disposal of Appeal.

Prayer in Crl.A. (MD) No.437 of 2022 :

Pleaded to call for the entire records connected to the judgment in S.C.No.50 of 2017 on the file of the Fast Track Mahila Court, Ramanathapuram dated 21.04.2022 and set aside the conviction and sentence imposed against the appellant.

Prayer in CRL MP(MD) NO.11985, 11990, 11988 & 11987/2022 in Crl.A. (MD) No.392/2022 :

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 by granting bail in S.C.No.50 of 2017 on the file of the Fast Track Court of Mahila Court, Ramanathapuram District, Dated : 21.04.2022 till the disposal of Criminal Appeal.

Prayer in Crl.A. (MD) No.392 of 2022 :

Pleaded to admit this appeal on file, to call for the records from the Lower Court in S.C.No.50 of 2017 on the file of Fast Track Mahila Court, Ramanathapuram and set aside the Judgment dated 21.04.2022 by acquitting the accused and by allowing the appeal.

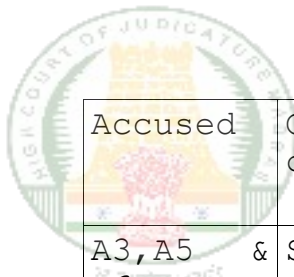
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.ALAGUMANI.R, Advocate for the petitioner in Crl.MP (MD) No.11940/2022 in Crl.A(MD) No.437/2022 & MR.V.KATHIRVELU, Senior Counsel for M/S.K.KUMARAVEL, Advocate for the Petitioner in Crl.MP(MD) No.11985, 11990, 11988 & 11987 in Crl.A(MD) No.392/2022 and of MR.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent in all the petitions, the court made the following order:-

(Order of the Court was made by N.ANAND VENKATESH, J)

The learned counsel for A1 and A2/petitioners in Crl.M.P(MD) Nos.11990 and 11988 of 2022, sought for the permission of this Court to withdraw these petitions. He has also made an endorsement to that effect. Accordingly, these petitions are dismissed as withdrawn.

2.A3 has filed Crl.M.P(MD)No.11987 of 2022, A5 has filed Crl.M.P(MD)No.11940 of 2022 and A6 has filed Crl.M.P(MD)No.11985 of 2022 seeking for suspension of sentence.

3.A3, A5 and A6 were convicted and sentenced by the Court below in the following manner:



Accused	Offence for which convicted	Sentence
A3, A5 & A6	Section 147 IPC Section 148 IPC Section 294(b) IPC Section 341 IPC Section 302 IPC r/w. Sections 109 and 149 IPC	Two years Rigorous Imprisonment Three years Rigorous Imprisonment Three months Rigorous Imprisonment One month Rigorous Imprisonment Life Imprisonment and to pay a fine of Rs.10,000/- and in default to undergo two years Simple Imprisonment
A6	Section 307 IPC	Ten years Rigorous imprisonment and to pay a fine of Rs.5000/- and in default to undergo one year simple imprisonment.

4.The case of the prosecution is that P.W.1 is the sister of D1 Vedhamani and D2 Asirvatham. There was a land dispute between the parties. On 26.06.2015, A5 went to the property in order to fence the property and this was resisted by D1. A5 informed about this to A1 and A1 is said to have gone to the property along with other accused persons. At about 06.45 a.m., there was a wordy quarrel and the accused persons are said to have abused in filthy language and threatened D1 and D1 is said to have been attacked by A1 and A2. D2 attempted to stop the accused persons and he is said to have been attacked by A3. A2 was also attacked by A4(who died during the pendency of the trial). P.W.1, who was an eye witness, on seeing the incident rushed to stop the accused persons attacking D1 and D2 and she is said to have been attacked by A6 in her left wrist. D1 and D2 died on the spot and an FIR came to be registered on 26.06.2015 at about 11.00 a.m.

5.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

6.The learned counsel appearing on behalf of the petitioners/A3, A5, A6 submitted that the prosecution examined P.W.1 to P.W.4 as eye witnesses in this case. It was submitted that P.W.2 to P.W.4 could not have been in the scene of occurrence, since their names were not mentioned in the complaint and even in the evidence and it came to be ascertained that they came to the scene of occurrence only after the incident took place. Insofar as the evidence of P.W.1 is concerned, it was contended that she could not have seen the occurrence. To substantiate the same, the discrepancy that is found between Ex.P.1 and the evidence that was adduced before the Court by P.W.1 was brought to the attention of this Court. That apart, Ex.D.1, which was marked during the cross-



examination of P.W.1, was admitted by P.W.1 to be the complaint, which was given to the police. By pointing out to Ex.D.1, it was contended that P.W.1 had given a completely different version about the attack made by each of the accused persons. Since the complaint Ex.D1 was concealed by the prosecution, it was submitted that the very genesis of the case has been suppressed and hence, benefit of doubt must be given to the accused persons.

7.The learned Additional Public Prosecutor vehemently opposed the petitions on the ground that this is a double murder case where the severity of the injuries sustained by the deceased (D1 & D2) is evident from the postmortem report and the evidence of postmortem Doctors, who were examined as P.W.15 and P.W.16. The learned Additional Public Prosecutor further submitted that the evidence of injured witness (P.W.1) has not been discredited and the injuries sustained by her has also been explained by the Doctor examined as P.W.14.

8.In the considered view of this Court, the genesis of the case has to be gone into in this case, since there was an earlier complaint given and it was admitted by P.W.1 and was marked during the cross-examination as Ex.D1. There is some discrepancy between Ex.D.1 and Ex.P.1 in terms of the overt act attributed against the accused persons. Insofar as A5 is concerned, he was merely present in the scene of crime and no specific overt act has been attributed against A5. Insofar as A6 is concerned, she is said to have attacked P.W.1 and caused injury in her wrist. Even though specific overt act has been attributed as against A3, he is a person, who is now aged about nearly 76 years and had already undergone incarceration for nearly 7 months. That apart, there are no bad antecedents as against A3, A5 and A6 and they have also paid the fine amount. It will take some more time to take up the criminal appeal for final hearing.

9.In view of the above, this Court is inclined to suspend the sentence imposed against the petitioners/A3, A5, A6 by the Court below in S.C.No.50 of 2017, dated 21.04.2022, subject to the following conditions:

- (I) The petitioners/A3, A5 & A6 shall execute bond for a sum of Rs.25,000/- each, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Fast Track Court of Mahila Court, Ramanathapuram District.
- (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 card or Bank pass Book to ensure their identity; and



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Crl.M.P(MD)Nos.11



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(iii) The petitioners/A3, A5 & A6 shall appear before the respondent police every Monday at 10.30 a.m., for a period of 8 weeks. After completion of the period reporting before the respondent police, the petitioners shall report before the Fast Track Court of Mahila Court, Ramanathapuram District, on the first 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/-
30/11/2022

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01/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, RAMANATHAPURAM.
2. THE INSPECTOR OF POLICE,
SAYALKUDI POLICE STATION,
RAMANATHAPURAM DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE SUPERINTENDENT,
WOMEN PRISON, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.ALAGUMANI, Advocate (SR-14167[I] dated 01/12/2022)

+2 CC to M/S.K.KUMARAVEL, Advocate SR.No.14143 & 14144(I), DATED : 01.12.2022.

ORDER IN
Crl.M.P(MD)Nos.11940, 11985,
11990, 11988 & 11987 of 2022
in
Crl.A(MD)Nos.437 & 392 of 2022
Date :30/11/2022

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