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CRL MP(MD) A



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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 MP(MD) No.11946 of 2022

in

Crl.A.(MD)No.611 of 2022

THIRUMURUGAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP. BY,
THE ASSISTANT COMMISSIONER OF POLICE,
PERUMALPURAM POLICE STATION,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.
(CR NO.98/2014).

... RESPONDENT/COMPLAINANT

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 by the Judgment dated.22.07.2022 SC No.173/2014 on the file of II Additional District and Sessions Court (PCR), Tirunelveli and enlarge the Petitioners on bail pending disposal of the above appeal.

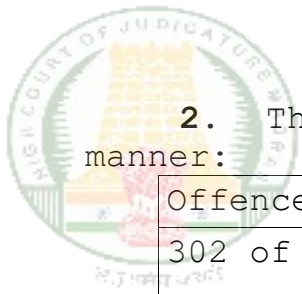
Prayer in Crl.A.(MD)No.611 of 2022 :

Pleased to call for the records relating to the judgment dated 22.07.2022 made in S.C.No.173 of 2014 on the file of II Additional District and Sessions Judge (P.C.R.) Tirunelveli and set aside the conviction and setence imposed against the Appellant and allow above appeal and acquitting the Appellant.

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.M.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES 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.)

This petition has been filed by the sole accused seeking for suspension of sentence imposed on the petitioner, by judgment and order dated 22.07.2022 passed in S.C.No.173 of 2014 on the file of the II Additional District and Sessions Court (PCR), Tirunelveli, and to enlarge the petitioner on bail pending disposal of the above appeal.



2. The petitioner was convicted and sentenced in the manner:

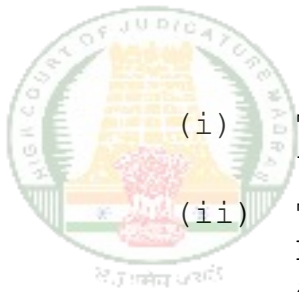
Offence	Sentence
302 of IPC	Life Imprisonment and fine of Rs.2,000/-, in default, to undergo six (6) months simple imprisonment
506 (ii) of IPC	Two (2) years Imprisonment and fine of Rs.1,000/-, in default, to undergo three (3) months simple imprisonment

3. The case of the prosecution is that the petitioner was working as Parotta Master in the hotel belonging to PW1. On 23.02.2014, there was some wordy quarrel between the petitioner and the deceased. As a consequence, on 24.02.2014, there was a quarrel between the petitioner and the deceased and the petitioner is said to have stabbed the deceased with a knife on the left chest and right abdomen and thereby, the deceased sustained bleeding injuries. The accused thereafter fled from the spot and he was ultimately arrested on 25.02.2014 at about 12.00 p.m.

4. Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

5. PWs.1 to 3 and PW17 were examined on the side of the prosecution as eye-witnesses. On going through the evidence of PW17, it is seen that the very presence of PW1 is doubtful. Similarly on going through the evidence of PW18, the presence of PW3 is also doubtful. PW1, who gave the complaint (Ex.P1) has specifically stated that the incident had occurred inside the Kitchen and there was one stab injury that was caused by the accused person on the left chest of the deceased. PW1, in the course of evidence, improves this stand and also speaks about yet another stab injury. The ocular evidence does not tally with the medical evidence, since PW13, who was the Doctor, who conducted the post-mortem, had found four stab injuries. In view of the same, the eye-witness account about the incident has been put to question. That apart, the observation mahazer and sketch, that was prepared by PW16 also does not indicate that the incident had taken place inside the Kitchen as projected by the eye-witnesses.

6. In the considered view of this Court, a prima facie case has been made out and it is brought to the notice of this Court that there are no bad antecedents against the petitioner and it will take some more time to take up the Criminal Appeal for final hearing. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.173 of 2014 dated 22.07.2022 subject to the following conditions:-



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- (i) The petitioner shall pay the fine amount as imposed by the Court below, if not paid;
- (ii) The petitioner shall execute 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 II Additional District and Sessions Court (PCR), Tirunelveli;
- (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 petitioner 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 petitioner shall report before the II Additional District and Sessions Court (PCR), Tirunelveli, 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/-

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

TO

1. THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
PCR, TIRUNELVELI.
2. THE ASSISTANT COMMISSIONER OF POLICE,
PERUMALPURAM POLICE STATION,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC TO M/S.AJMAL ASSOCIATES, S.R.NO.59068 (F), DATED : 01.12.2022.

ORDER IN

CRL MP(MD) No.11946 of 2022
in

Cr1.A.(MD)No.611 of 2022

Date :01/12/2022

USK/VP/SAP-I/02.12.2022/3P/6C
<https://www.mhc.in.gov.in/fuels>