



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

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

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

CRL MP(MD) No.11993 of 2022
in
CRL.A.(MD)No.618 of 2022

1. SELVAM

2. RAMALINGAM

... PETITIONERS/APPELLANTS

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
VALLAM POLICE STATION,
THANJAVUR DISTRICT.

... 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 Sentence imposed by the Learned II-Additional District and Sessions Judge, Thanjavur in SC.No.145 of 2013 dated.15.06.2022 and to enlarge the Petitioners/Appellants on bail pending disposal of the above said Criminal Appeal.

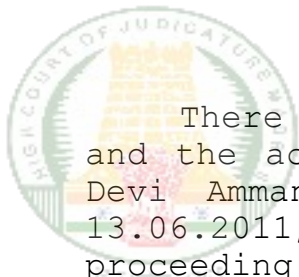
PRAYER in CRL.A.(MD)No.618 of 2022 :

Pleased to call for the records and set aside the sentence and conviction imposed in S.C.No.145 of 2013 on the file of the learned IInd Additional District and Sessions Court, Thanjavur vide judgment dated 15.06.2022 so far as the Appellants are concerned.

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.NAVANEETHARAJA K, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned II Additional District and Sessions Judge, Thanjavur, in S.C.No.145 of 2013, dated 15.06.2022, and enlarge the petitioners on bail, pending disposal of the Appeal.

2.The case of the prosecution is in brief:-



There was previous enmity between the defacto complainant group and the accused group over receiving the first honour in Siyamala Devi Amman Temple. In pursuance of the above said enmity, on 13.06.2011, at about 04.00 p.m, when the injured Senthilkumar was proceeding to his sister's house, all the 9 accused persons assembled with an intention to cause assault. The accused No. 6 to 9 abused him in filthy language. When that was objected by the defacto complainant namely, Shanmugam, the third accused caused assault to Shanmugam with brick. The second accused No.2 & 4 caused assault with bricks on his chest region. In the above said occurrence, the injured namely, Manimegalai, Kayalvizhi, Rameswari were assaulted by the accused No.7 & 8 with bricks. The first accused caused assault to Pitchaian with brick on his back side of the head. Because of the severe injury suffered by the above said Pitchaian at the hands of the first accused, he died on 19.06.2011. On the basis of the complaint, investigation was undertaken and final report was filed. The case was tried by the Trial Court.

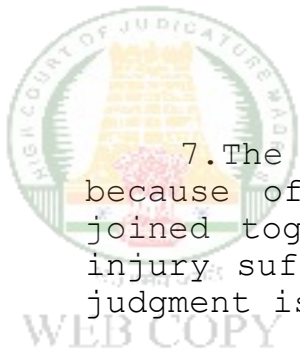
3. During the course of trial process, on the side of the prosecution 19 witnesses were examined and 15 documents marked. Apart from, 1 Material Object. On the side of the accused, no document and no witness were exhibited.

4. By the judgment, dated 15.06.2022, found the petitioners guilty, convicted and sentenced them as detailed below:-

Accused rank	Convicted under Section	Sentence of Imprisonment/fine imposed
Accused Nos.1 and 3	147 IPC	Fine Rs.1000/- each in default one month Simple Imprisonment
Accused Nos.1 and 3	341 IPC	Fine Rs.500/- each in default two weeks Simple Imprisonment
Accused No.3	324 IPC	2 months simple imprisonment
Accused Nos.1 and 3	304 r/w 299 IPC	Ten years of Rigorous Imprisonment and Fine Rs.10,000/- each in default Six months Simple Imprisonment

5. Aggrieved by the said judgment of conviction and sentence, the petitioners/Accused have preferred the above appeal.

6. The learned counsel for the petitioners would submit that there was no big enmity between the defacto complainant party and the petitioners. Even as per the FIR and other statement of the witnesses, only 4 persons names were mentioned. But, during the course of investigation, 9 persons have been added without any specific overt act. He would further submit that there was no big enmity between these 2 groups of people except the motive with regard to receiving of first honour in the temple festival.



7. The learned Additional Public Prosecutor would submit that because of the above said previous enmity, only all the accused joined together and caused severe assault. Because of the severe injury suffered by the deceased, the death occurred. Moreover, the judgment is of only recent date.

8. No doubt, there was no big enmity between these 2 groups of people over the above said receiving of first honour in the temple festival. On the particular date of occurrence, there was sudden fight between them. In respect of the very same occurrence, counter case has also been registered in Crime No.200 of 2011. Since it is a case and case in counter, simultaneous trial was undertaken. But, the counter case has been tried in SC.No.67 of 2014. Wherein, the fifth accused namely, Selvanathan is the defacto complainant and the ninth accused namely, Sathiyaraj is P.W.2. It appears that in both cases, date and time are stated to be the same. In the case in counter case, the Investigating Officer ought to have undertaken the investigation in both the matters and during the course of investigation, the aggressors were not fixed. Then, they ought to have filed final reports against both parties. Reading of both the judgments shows that no reference has been made with regard to the counter case. How the investigation has been undertaken in such a manner is a matter for consideration in the appeal.

9. In the facts and circumstances of the case, it is seen that there was no premeditation. There was sudden fight between 2 groups. The legality of investigation process is now, under challenge. So, in view of the above said issue, this Court is inclined to suspend the sentence pending disposal of the appeal.

10. Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Thanjavur, and on further condition that the petitioners shall appear before the said Court once in a week at 10.30 a.m., pending appeal.

sd/-
07/10/2022

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07/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE II ADDITIOINAL DISTRICT AND SESSIONS JUDGE,
THANJAVUR.
2. THE INSPECTOR OF POLICE,
VALLAM POLICE STATION,
THANJAVUR DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.11993 of 2022
in
CRL.A. (MD) No.618 of 2022
Date :07/10/2022

VJI/SSB
USK/SBN/SAR-I/07.10.2022/4P/5C