



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.12675 of 2022
in
Crl.A.(MD) No.647 of 2022

A.MOHAMED THAVUTHU

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
KEELAKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
(CRIME NO.9/2019).

... 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 and grant bail to the Appellant/Accused No.3 against the Judgement in SC No.8/2020 on the file of the Hon'ble Principal Sessions Judge, Ramanathapuram dated.14.09.2022 in Crime No.9/2019 on he file of the Respondent Police pending disposal of the instant Criminal Appeal on such terms and conditions.

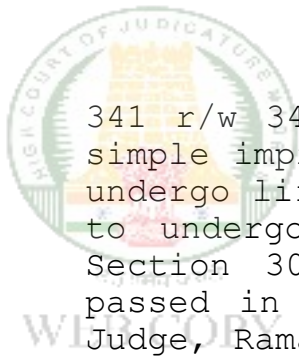
Prayer in Crl.A. (MD) No.647 of 2022 :

Pleased to call for the records of the Judgement in S.C.No.8 of 2020 on the file of the Hon'ble Principal Sessions Judge, Ramanathapuram dated 14.09.2022 in Crime No.9 of 2019 on the file of the Respondent Police and set aside the same and Acquit the Appellant/Accused No.3.

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.THIRUMURUGAN T, 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/A3, who was convicted for offences under Section
<https://www.mhc.tn.gov.in/judis>



341 r/w 34 and 302 r/w 34 IPC and sentenced to undergo simple imprisonment for offence under Section 341 r/w 34 IPC and to undergo life imprisonment and to pay fine of Rs.10,000/-, in default to undergo simple imprisonment for six months for offence under Section 302 r/w 34 IPC, by judgment and order dated 14.09.2022 passed in S.C.No.9 of 2019 on the file of the Principal Sessions Judge, Ramanthapuram, 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 there was a previous enmity between A1 and the deceased. On 10.01.2019, all the accused persons are said to have gone to the place of the deceased and there was a wordy quarrel and A1 is said to have stabbed the deceased with knife and A2 and A3 caught hold of the deceased. The deceased ultimately succumbed to the injuries.

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

4. There are totally three accused in this case and the petitioner is arrayed as A3. It is brought to our notice that A1 died and hence, the proceedings against A1 abated.

5. The case of the prosecution hinges upon the evidence of P.W.2, who was examined as eyewitness. The learned counsel for the petitioner submitted that even as per the version given by P.W.2, she only saw A2 and A3 standing in the scene of crime and A1 was having the bloodstained knife in his hands. In view of the same, it was contended that the mere presence of the petitioner will not attract Section 34 IPC.

6. Taking into consideration the facts and circumstances of the case and also the fact that 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.

7. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.8 of 2020 dated 14.09.2022 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, No.I, Ramanathapuram.



(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,
RAMANATHAPURAM.
2. THE JUDICIAL MAGISTRATE NO.I,
RAMANATHAPURAM.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
4. THE INSPECTOR OF POLICE,
KEELAKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
5. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.12675 of 2022
in
Crl.A.(MD) No.647 of 2022
Date :02/12/2022

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USK/SSS/SAR-I/02.12.2022/3P/7C

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