



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

Thursday, the Twenty Seventh day of April Two Thousand and Twenty
Three

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PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.4190 of 2023
in
Crl.A.(MD)No.191 of 2023

1 T.SELVAKUMAR

2 S.PADMA @ PADMAVATHI

... APPELLANTS/ACCUSED NOS.1 & 2

Vs

1 THE STATE REP. BY
THE DEPUTY SUPERINTENDENT OF POLICE,
KANYAKUMARI SUB DIVISION,
THENTHAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.106/2015)

2 ANANTH

... 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 and grant bail to the Appellants/Accused Nos.1 and 2 against the Judgment dt.24.02.2023 in SC No.137/2015 on the file of the II Additional District and Sessions Judge (PCR) Tirunelveli in Crime No.106/2015 on the file the Respondent police pending disposal of the instant Criminal Appeal on such terms and conditions as may be deemed fit.

PRAYER IN Crl.A.(MD)No.191 of 2023:-

To call for the records of the Judgement dated 24.02.2023 in S.C.No.137 of 2015 on the file of the II Additional District and Sessions Judge(PCR) Tirunelveli in Crime No.106 of 2015 on the file of the Respondent Police and set aside the same and acquit the Appellants/Accused no.1 & 2.

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.SEENI SYED AMMA, Advocate for M/S.LAJAPATHI ROY AND ASSOCIATES for the petitioner and of M/S.SS.MADHAVAN, Government Advocate (Crl.Side) on behalf of the Respondents the court made the

<https://www.hcma.org.in/> order:-



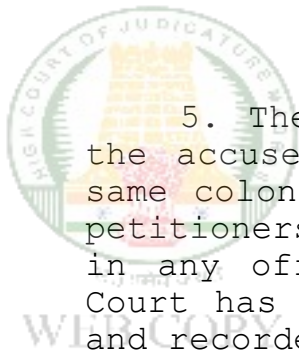
Reserved on : 21.04.2023
Delivered on : 27.04.2023

This petition has been filed to suspend the sentence imposed by the learned II Additional District and Sessions Judge (PCR), Tirunelveli, made in Spl.S.C.No.137 of 2015, dated 24.02.2023, pending disposal of the Criminal Appeal.

2. The case of the prosecution is that on 30.03.2015, at about 06.00 p.m, when the second accused was taking bath, the defacto complainant's brother-in-law Suyambulingam peeped the same and hence, quarrel had arisen; that the defacto complainant, L.W.2 and L.W.3 belong to Hindu Schedule Caste community and whereas the accused are caste Hindus; that at about 08.00 pm on the same day, when L.w.3 was returning from the shop and while crossing the house of the accused, the second accused and her husband, the first accused had waylaid her, abused her in filthy language by using caste name, attacked with sickle and inflicted injuries on her right side face, forehead, little finger in right hand and left elbow; that when L.W.2 intervened, the first accused gave several blows with sickle by aiming his life and caused several injuries all over his body; that the second accused has suddenly picked a stone and smashed left hand of L.W.3 and that when the neighbours intervened, both the accused had criminally intimidated them. On the basis of the complaint, FIR came to be registered in Crime No.106 of 2015 and the respondent Police, after completing the investigation, has laid the final report for the offences punishable under Sections 341, 294 (b), 326, 307, 506(ii), 352 IPC and Section 3(2)(v), 3(1)(x) of SC/ST (POA) Act.

3. During trial, the prosecution has examined 20 witnesses as P.W.1 to P.W.20; exhibited 28 documents as Ex.P.1 to Ex.P.28 and marked seven material objects as M.O.1 to M.O.7. The defence has adduced neither oral nor documentary evidence.

4. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the judgment dated 24.02.2023, convicting the first accused for the offence under Sections 341, 307 (2 counts) IPC and convicting the second accused for the offence under Sections 341, 307 IPC r/w 34 of IPC (2 counts) and both of them were sentenced to undergo one month simple imprisonment and to pay a fine of Rs.500/- in default, to undergo one week simple imprisonment for the offence under Section 341 IPC and sentenced to undergo five years rigorous imprisonment each and to pay a fine of Rs.1,000/- in default, to undergo six months simple imprisonment for the offence under Section 307 IPC(2counts). Aggrieved by the judgment of conviction and sentence, both the accused have preferred the present appeal along with petition seeking suspension of sentence.



5. The learned counsel for the petitioners would contend that the accused persons and the family of P.W.1 were residing in the same colony; that the above case came to be registered against the petitioners with evil motive; that the petitioners were not involved in any offence as alleged by the prosecution and that the trial Court has failed to appreciate the evidence in proper perspective and recorded the conviction mechanically.

6. The learned Government Advocate (Criminal Side) appearing for the State would submit the accused 1 and 2 had attacked P.W.2 and P.W.3 with sickle and stones; that both of them had sustained grievous injuries; that Medical Officer has elaborated the number and nature of injuries sustained by them and the injured had many fracture injuries also.

7. Considering the above facts and circumstances of the case and also the nature and gravity of the offence allegedly proved against the petitioners and also the fact that the impugned judgment was passed only on 24.02.2023 and the way in which, the petitioners had attacked the witnesses, this Court is not inclined to suspend the sentence at this point of time.

8. In the result, the Criminal Miscellaneous Petition is dismissed.

sd/-
27/04/2023

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/05/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DAS

TO

- 1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),
TIRUNELVELI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON (WOMEN), MADURAI.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI.
- 4 THE DEPUTY SUPERINTENDENT OF POLICE,
KANYAKUMARI SUB DIVISION,
THENTHAMARAikulam POLICE STATION,
KANYAKUMARI DISTRICT.



Crl.M.P(MD)



23

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

WEB COPY

ORDER

IN

CRL MP (MD) No.4190 of 2023

IN

CRL A (MD) No.191 of 2023

Date :27/04/2023

NA/VR/SAR-3/15.05.2023/4P/6C