



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

Monday, the Tenth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.4987 of 2023
and
CRL A(MD)No.181 of 2023

1 DHANABALAN

2 ANISH ...APPELLANTS/PETITIONERS
(PETITIONERS ARE CENTRAL PRISON IN PALAYAMKOTTAI)

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.429/2013)

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspense the sentence imposed in SC No.107/2015 dt.06.01.2023 on the files of Additional Sessions Court, Kuzhithurai and enlarge the petitioners on bail till the pending disposal of this Criminal Appeal.

PRAYER IN CRL A(MD)No. 181 OF 2023:

To call for the records and to set aside the judgment of conviction dated 06.01.2023 made in S.C.NO. 107 of 2015 on the file of Additional Sessions Court, Kuzhithurai.

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.HEROLD SINGH S.C., Advocate for the petitioners and of MR.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **R.SURESH KUMAR, J.**)

This petition has been filed to suspend the sentence imposed against the petitioners in S.C.No.107 of 2015, dated 06.01.2023 on the file of the Additional Sessions Court, Kuzhithurai and enlarge them on bail pending disposal of the Criminal Appeal.



2. There are two accused, namely, A1 and A2 and two accused have been sentenced to life by the said judgment which is under appeal.

3. These two accused have filed the present petition to suspend the sentence.

4. Heard Mr.S.C.Herold Singh, the learned counsel appearing for the petitioners and Mr.E.Antony Sahaya Prabahar, the learned Additional Public Prosecutor appearing for the respondent.

5. The Trial Court mainly relied on the evidence of P.W.1, P.W.5 and P.W.6.

6. Though P.W.1, P.W.5 and P.W.6 have deposed that they were eyewitnesses to the earlier incident where there had been a wordy quarrel, with the result, the accused slapped the victim and thereafter, it is a prosecution case that the accused persons had taken a van chasing the victim who was riding in bike.

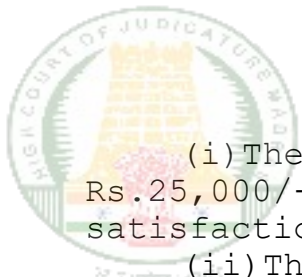
7. After some time, it is the evidence of P.W.5 and P.W.6 that they got a message that a van hit the bike driven by the victim, with the result, the victim died.

8. Corroborating all these evidence, the prosecution had filed a charge sheet and the trial was conducted where the trial Court having accepted the evidence of P.W.1, P.W.5 and P.W.6 as well as other evidence, had convicted the accused persons for life sentence.

9. In this context, it is to be noted that P.W.1, even though in the chief examination, has stated that the victim, who is the son of P.W.1, on 10.09.2013 at 07.30 p.m., had gone to Kuzhithurai by his two wheeler, subsequently, in the very same chief examination, she claimed that she was the witness of wordy quarrel taken place between the victim as well as the accused persons and she claimed that she had been there in the medical shop to purchase medicine.

10. These kinds of unconnected depositions since had been made by the main witness, especially, P.W.1, we feel that the veracity of these evidence recorded before the Trial Court can be gone into only during the final hearing, for which, it will take some time to take up the main appeal. Hence, on *prima facie* consideration, we feel that the sentence made against the accused persons (i.e.,) the petitioners herein, can be suspended for the time being.

11. With the result, the sentence made by the trial Court, namely, the Additional Sessions Court, Kuzhithurai, in S.C.No.107 of 2015 dated 06.01.2023, is hereby suspended with the following conditions:



(i)The petitioners shall execute a bond for a sum of Rs.25,000/-, each with two sureties, each for a like sum to the satisfaction of the learned Additional Sessions Judge, Kuzhithurai;

(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

(iii)The petitioners shall appear before the learned Additional Sessions Judge, Kuzhithurai, once in a month, the first such appearance shall be made insofar as April, 2023 is concerned, on 20.04.2023 at 10.30 a.m. and subsequently, on the first working day of every English Calender month the petitioners shall appear before the said Court at 10.30 a.m. until further orders and if they are not able to appear before the said Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the said Court on any other day in lieu of the date of their absence, as directed by the said Court.

sd/-

10/04/2023

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13/04/2023

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

SSB
TO

1 THE ADDITIONAL SESSIONS JUDGE,
KUZHITHURAI.

2 THE INSPECTOR OF POLICE
KALIYAKAVILAI POLICE STATION,
KANYAKUMARI DISTRICT.

3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to M/s.HEROLD SINGH S.C., Advocate (SR-5620[I] dated 11/04/2023)

ORDER
IN
CRL MP(MD) No.4987 of 2023
and
CRL A(MD)No.181 of 2023
Date :10/04/2023