



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

Friday, the Twelfth day of May Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5833 & 5835 of 2023
in
CRL RC(MD) No.398 of 2023

VENGAI ... PETITIONER/PETITIONER/APELLANT/ACCUSED 4
IN CRL MP(MD).5833/2023

1 CHITHRA ... PETITIONER/PETITIONER/APELLANT/ACCUSED-5
2 ARUMUGAM ... PETITIONER/PETITIONER/APELLANT/ACCUSED-6
IN CRL MP(MD).5835/2023

Vs

State Rep.by
THE INSPECTOR OF POLICE
SIPCOT POLICE STATION,
MANAMADURAI,
SIVAGANGAI DISTRICT.
CR.NO.190/2013

... RESPONDENT/RESPONDENT/RESPONDENT/COMPLAINANT
IN BOTH CRL MP'S

Common Prayer in CRL MP(MD) No.5833 & 5835/2023 :

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 in SC No.108/2017 dt 23.04.2019 by the Learned Chief Judicial Magistrate cum Assistant Sessions Judge, Sivagangai and confirmed in Crl.App.No.41/2019 by the Learned Additional District and sessions Judge, Sivagangai by his judgment dated 25.01.2023 and enlarge the petitioners on bail pending disposal of Main Criminal Revision.

Prayer in CRL RC(MD).398/2023 :

To call for records and set aside the conviction and sentence passed in S.C.No.108 of 2017 dated 23.04.2019 by the Learned Chief Judicial Magistrate cum Assistant Sessions Judge, Sivagangai and confirmed in Crl.App.No.41 of 2019 by the Learned Additional District and Sessions Judge, Sivagangai by his judgment dated 25.01.2023.

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.P.KARTHICK, Advocate for the petitioner in both
<https://www.mca.gov.in/judis> and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) on



behalf of the Respondent in both petitions, the court following order:-

Reserved on : 28.04.2023

Delivered on : 12.05.2023

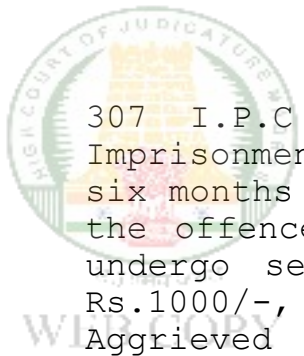
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These Criminal Miscellaneous Petitions have been filed to suspend the sentence imposed in S.C.No.108 of 2017, dated 23.04.2019, on the file of the learned Chief Judicial Magistrate cum Assistant Sessions Judge, Sivagangai, confirmed in Crl.A.No.41 of 2019 on the file of the learned Additional District and Sessions Judge, Sivagangai, vide order dated 25.01.2023 and enlarge the petitioners/A4 & A5 on bail, till the disposal of this Criminal Appeal.

2.The case of the prosecution is that there existed money disputes between the family of the defacto complainant and the accused; that one Muthaiah on the side of the accused was murdered and for that case FIR came to be registered against the complainant's parents and brother in Sipcot Police Station; that the complainant's mother Sethu was released on conditional bail; that when the said Sethu after appearing before the Sipcot Police Station on 18.10.2013 and returned to her home; the accused 1 to 6 after coming to know about the same went to her house jointly with deadly weapons at about 16.30 hours, abused her in filthy language and asked her to come out; that while the said Sethu has come out of her house, A5 and A6 had restrained her and abused her with obscene words; that the other accused had attacked her with sickle and knife all over her body and caused grievous injuries and that therefore, on the basis of the complaint lodged, FIR came to be registered in Crime No.190 of 2013 for the offence under Sections 147, 148, 294 (b), 341, 326, 307 and 323 IPC. The respondent, after completing the investigation, has filed the final report against the fourth accused for the offence under Sections 147, 148, 294(b), 326, 341 IPC and against the fifth accused for the offence under Sections 147, 148, 294(b), 341, 323 IPC.

3.During trial, the prosecution has examined 12 witnesses as P.W.1 to P.W.12 and exhibited 18 documents as Ex.P.1 to Ex.P.18 and three material objects were marked as M.O.1 to M.O.3. The accused has adduced neither oral nor documentary evidence.

4.The learned Sessions Judge, upon considering the evidence adduced and on hearing the arguments on both the sides, has passed the judgment, dated 23.04.2019 acquitting the petitioners/A4 & A5 for the offence under Sections 294(b) and 341 IPC and convicting the accused No.4 & 5 for the offence under Section 148 I.P.C and sentenced them to undergo one year Rigorous Imprisonment and to pay a fine of Rs.250/-, in default, to undergo three months simple Imprisonment; convicting the fourth accused for the offence Section

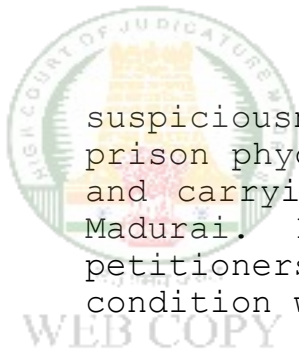


307 I.P.C and sentenced him to undergo seven years Imprisonment and to pay a fine of Rs.1000/-, in default, to undergo six months simple Imprisonment and convicting the fifth accused for the offence Section 307 r/w Section 34 I.P.C and sentenced him to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.1000/-, in default, to undergo six months simple Imprisonment. Aggrieved by the said judgment of conviction and sentence, the accused have preferred an appeal in Crl.A.No.41 of 2019 and the learned Additional District and Sessions Judge, upon considering the evidence and materials available on record and on hearing the arguments of both the side, has passed the impugned judgment, dated 25.01.2023, dismissing the appeal and thereby confirming the judgment of the trial Court. Aggrieved by the dismissal of the appeal, the accused have come forward with the present Criminal Revision and the above applications came to be filed by the petitioners/A4 and A5, seeking suspension of sentence.

5.The learned counsel for the petitioners would submit that P.W.2 is totally unreliable and the evidence of P.W.2 does not corroborate with the medical evidence adduced; that the earlier treatment records of P.W.2 were not produced before the trial Court and the same were suppressed by the prosecution; that the complaint allegedly given by P.W.1 has been suppressed by the prosecution and delayed version was projected by the prosecution case; that the First Information Report is fabricated and brought in long after the occurrence; that the complainant and his family in order to wreck vengeance and force the petitioners to enter into compromise, the above false case has been foisted; that the petitioners during the course of trial and during the appeal were on bail; that the fourth accused is suffering very sleeping disturbances and is taking treatment in Government Medical College Hospital, Sivagangai.

6.The learned Government Advocate (Criminal Side) appearing for the State would submit that all the accused in an attempt to retaliate for the murder of one Muthaiah from the side of the accused, the accused with pre-planned, went to the house of the complainant, abused her and asked her to come out; that when the complainant's mother Sethu came out of her house, the accused by restraining her from moving in any direction had attacked her with sickle and knife indiscriminately and caused serious injuries all over her body; that the trial Court, on considering the evidence available on record, has rightly convicted the accused including the petitioners and that the appellate Court has also rightly confirmed the judgment of conviction and sentence passed by the trial Court .

7.Since the counsel for the petitioner has taken a stand that the fourth accused is now taking treatment in the Prison Hospital, the learned Government Advocate (Criminal Side) has submitted a report issued by the Medical Officer, Prison Hospital, Central Prison, Madurai, dated 28.04.2023, wherein it has been stated that the fourth accused had complained of irrelevant talk,



suspiciousness, sleep disturbances for which he was consulted by a prison psychiatrist and started on antipsychotics, patient is stable and carrying out his daily activities normally at Central Prison, Madurai. Except the complaints mentioned in the report, the petitioners have not canvassed any other ill-health or medical condition which requires treatment in a private hospital.

8. Considering the above facts and circumstances and also the nature and gravity of the offence allegedly proved and taking note of the fact that the appellate Court has also confirmed the judgment of conviction and sentence passed by the trial Court and the period of incarceration, this Court is not inclined to grant suspension of sentence at this point of time.

9. In the result, these Criminal Miscellaneous Petitions are dismissed.

sd/-

12/05/2023

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

das

TO

- 1 THE CHIEF JUDICIAL MAGISTRATE CUM ASSISTANT SESSIONS JUDGE, SIVAGANGAI.
- 2 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, SIVAGANGAI DISTRICT.
- 3 THE INSPECTOR OF POLICE, SIPCOT POLICE STATION, MANAMADURAI, SIVAGANGAI DISTRICT.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.5833 & 5835 of 2023
in
CRL RC(MD) No.398 of 2023
Date :12/05/2023

RS/VR/SAR-4(18.05.2023) 4P 6C