



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

Tuesday, the Twentieth day of June 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.14399 & 14400 of 2022
IN
CRL A(MD) No.801 of 2022

1 PITCHAI

2 SELVAM @ SELVAKUMAR

... PETITIONER/ACCUSED 1 & 2
IN BOTH PETITIONS

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION,
KARUR DISTRICT.
CR.NO.12/2019

... RESPONDENT/COMPLAINANT
IN BOTH PETITIONS

Prayer in CRL MP(MD) . 14399/ 2022 :

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 of imprisonment awarded against the accused no.1(Pitchai) by the Judgment dt 28.12.2021 in S.c.No.75/2019 dt 20.04.2022 on the file of the Learned Principal Sessions, Karur and enlarge the petitioner on bail, pending disposal of this Criminal Appeal.

Prayer in CRL MP(MD) . 14400/ 2022 :

To Suspend the sentence of imprisonment awarded against the accused No.2 (Selvam @ Selvakumar) by the judgment dt 28.12.2021 in S.C.No.75/2019 dt 20.04.2022 on the file of the Learned Principal Sessions, Karur and enlarge the petitioner on bail, pending disposal of this Criminal Appeal.

Prayer in CRL A(MD) . 801/ 2022 :

Pleased to call for the records and allow the appeal and acquit the appellants by setting aside the judgment dated 20.04.2022 in S.C.No.75 of 2019 on the file of the Learned Sessions Judge, Karur.

Order : These petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the



arguments of M/S.GANAPATHI SUBRAMANIAN P, Advocate ie petitioner in both Petitions and of Mr.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent in both Petitions, the court made the following order:-

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

WEB COPY

These petitions have been filed to suspend the sentence imposed against the petitioners in S.C.No.75 of 2019, dated 20.04.2022 on the file of the learned Principal Sessions Judge, Karur and release the petitioners on bail till the disposal of the Criminal Appeal.

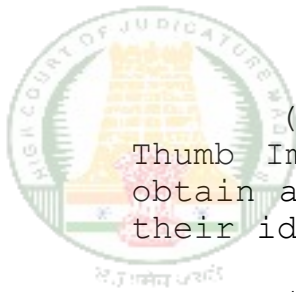
2.Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor for the respondent.

3.Totally, there are five accused. However, the trial Court acquitted A3, A4 and A5 and convicted A1 and A2, who are the petitioners herein. Though there had been five witnesses, according to the prosecution, except P.W.1, who is the wife of the deceased, others turned hostile.

4.Even according to the prosecution, the eye witness theory is based on all the five witnesses ie., P.W.1 to P.W.5 that they jointly went for shopping along with the deceased on the fateful day. At that time, this occurrence had happened. That is the story of the prosecution.

5.It is to be noted that though P.W.1 is the wife of the deceased, two years back she filed divorce petition against the deceased by making allegations that the deceased had been in the habit of stealing the property of others and had illicit relationship with many girls and it was also stated by P.W.1 in the divorce petition that she had not been living with the husband and that position had been continued. This has been accepted by P.W.1 in the cross-examination. Therefore, the veracity of what has been stated in the cross-examination, whether based on which conviction was inflicted by the trial Court in the impugned judgment is correct or not has to be examined only at the time of final hearing, for which, it will take some reasonable time. Therefore, taking into account the totality of the situation, where the accused persons have been in jail from 20.04.2022, we feel that the sentence can be suspended, accordingly, these Criminal Miscellaneous Petitions are ordered and the imprisonment ordered by the trial Court through the impugned judgment is suspended subject to 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 Judicial Magistrate, Kulithalai, Karur District.;



(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 petitioners shall appear before the learned Judicial Magistrate, Kulithalai, Karur District, once in a month, the first such appearance shall be made insofar as June, 2023 is concerned, on 26.06.2023 at 10.30 a.m. and subsequently, on the first working day of every English Calendar month they shall appear before the learned Magistrate concerned 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/-

20/06/2023

/ TRUE COPY /

21/06/2023

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

MYR

TO

1 THE PRINCIPAL SESSIONS JUDGE
KARUR DISTRICT.

2 THE JUDICIAL MAGISTRATE,
KULITHALAI, KARUR DISTRICT.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

5 THE INSPECTOR OF POLICE
KULITHALAI POLICE STATION, KARUR DISTRICT.

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

+2. C.C. to M/S.GANAPATHI SUBRAMANIAN P Advocate SR.No.9193,9194

ORDER IN

CRL MP(MD) No.14399 & 14400 of 2022

IN CRL A(MD) No.801 of 2022

Date :20/06/2023

SA/SSS/SAR. /21.06.2023/3P/9C

<https://www.mhc.tn.gov.in/judis>