



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

Tuesday, the Third day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL.M.P.(MD)No.14413 of 2022
in
CRL.A.(MD)No.710 of 2022

MATHIYALAKAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.248/2012)

... 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 imposed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputtur in SC No.156/2013 on 28.10.2022 and release the Petitioner on bail pending disposal of the Criminal Appeal.

PRAYER IN CRL.A.(MD)No.710 of 2022:

To call for the records set aside the conviction and sentence imposed by the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.156 of 2013 on 28.10.2022 and allow this Criminal Appeal.

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.JOTHI BASU M, Advocate for the petitioner and of M/S.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur, dated 28.10.2022, in S.C.No.156 of 2013 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the accused in this case, has been found guilty and convicted by the learned Sessions judge, for the offence under Section 307 IPC (4 counts) and sentenced to undergo 10 years imprisonment for each count and to pay a fine of Rs.3,000/-



for each count in default to undergo rigorous imprisonment a period of six months in S.C.No.156 of 2013 on the file of the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur. Set off under Section 428 Cr.P.C. was also ordered.

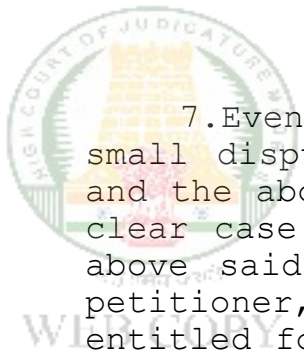
3.The case of the prosecution in brief:

The defacto complainant lodged a complaint stating that the alleged occurrence has happened due to the previous enmity with regard to the passing of rain water. On 21.10.2012 at about 6.00 p.m., on noticing the passing of rain water near their house, the defacto complainant trying to divert the same. At that time, the accused Mathiyalagan come by that way. The water was splashing on his body. Because of that, he got angry with them. Therefore, he went to his house and informed the same to his wife and at the instigation of his wife, the above said Mathiyalagan came with aruval and caused severe injuries on the left hand writ region of Mariammal. The left hand was amputated. He made assault repeatedly on various parts of the body. The injured were taken to the hospital. On the basis of the above said complaint, case was registered. After completing the investigation final report was filed for the offence punishable under Section 307(4 counts). Before the trial Court, on behalf of the prosecution 15 witnesses have been examined and 14 documents were marked. Apart from that one material object has been marked. On the side of the accused, none was examined and no documents were marked.

4.At the conclusion of the trial, the trial Court came to the finding that the charge that was framed against the accused person was proved beyond the reasonable doubt. On that basis, the accused was found guilty and convicted and sentenced above. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner. Pending appeal, this petition has been filed seeking suspension of sentence.

5.The learned counsel for the petitioner submitted that because of the above said small issue there is a motive between them and there was sudden fight over passing of the water. According to him, absolutely, there is no previous motive to cause death.

6.The learned Additional Public Prosecutor would submit that three persons have been severely injured by this petitioner. The first accused caused assault on the head of PW2. She raised alarm. So the mother came and she was also assaulted. On hearing the above said noise, Mariammal came there. She was also assaulted by the first accused on her left wrist region. Because of the above said assault the left hand was amputated. Not only that, but their grandfather was also assaulted with aruval on various parts of the body. According to him, such a person who has made assault upon more than three persons is not entitled for suspension of sentence.



7. Even though there was no big motive between neighbor and small dispute arose between them over splashing of the rain water and the above said occurrence said to have taken place. But it is a clear case of amputation of the hand. So the manner, in which, the above said indiscriminate assault said to have been made by this petitioner, I am of the considered view that he is not at all entitled for suspension of sentence. I find no reason to entertain this petition at this stage. Since the appeal is ripe for final disposal, the petitioner can argue the main appeal itself.

8. This petition deserves to be dismissed. Accordingly, **dismissed.** List the main criminal appeal in Crl.A.(MD).No.710 of 2022 on **06.02.2023** for final disposal.

sd/-
03/01/2023

/ TRUE COPY /

/01/2023

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

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TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT @ SRIVILLIPUTHUR,
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
SEITHUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL.M.P.(MD)No.14413 of 2022
in
CRL.A.(MD)No.710 of 2022
Date : 03/01/2023

RK/BUC/SAR- 2 (06/01/2023) 3P/5C