



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

Tuesday, the Fourteenth day of February Two Thousand and Twenty
Three

WEB COPY

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

Crl.M.P. (MD) Nos.14809 & 14810 of 2022
in
Crl.A. (MD) No.419 of 2021

S.RAJA

... PETITIONER/1stAPPELLANT
IN CRL MP (MD) No14809 of 2022

A.PANDIYARAJAN,

...PETITIONER/2nd APPELLANT
IN CRL MP (MD) No.14810 of 2022

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
THILLAINAGAR POLICE STATION,
THILLAINAGAR,
TIRUCHIRAPPALLI-620 018.

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

Prayer in CRL MP (MD) No.14809 of 2022:

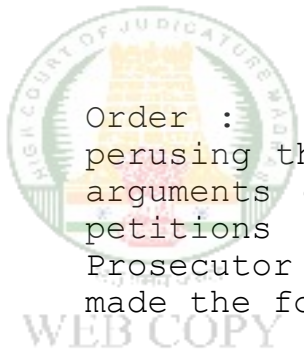
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the judgement of conviction and sentence dt.17.8.2021 in SC.No.116 of 2017 on the file of the II Additional District and Sessions Judge, Tiruchirappalli pending disposal of the appeal.

Prayer in CRL MP (MD) . 14810/ 2022 :

To Suspend the judgement of conviction and sentence dt.17.8.2021 in SC.No.116 of 2017 on the file of the II Additional District and Sessions Judge, Tiruchirappalli pending disposal of the appeal.

Prayer in CRL A (MD) No.419 OF 2021:

To call for records and set aside the judgment of conviction and sentence dated 17.08.2021 in S.CNo. 116 of 2017 on the file of the II Additional District and Sessions Judge, Tiruchirappalli and acquit the accused and allow the present appeal.



Order : These petitions coming up for orders on this coming on perusing the petition filed in support thereof and upon hearing the arguments of M/S.C.MAHADEVAN, Advocate for the petitioner in both petitions and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent in both petitions, the court made the following order:-

These two applications are filed for suspension of sentence by the accused Nos.1 & 2.

2. The learned counsel appearing for the petitioners submitted that the evidence relied upon by the trial Court is not reliable and there are grounds to impeach the finding of the trial Court. He would further submit that the defacto complainant in this case died pending trial and the other so called injured witness was examined as P.W.1, however, their presence at the scene of crime is highly doubtful in view of the evidence given by P.W.6, who is none other than the wife of the deceased and daughter-in-law of the defacto complainant.

3. The case of the prosecution as such run as below:-
One Prabakaran, when he was along with his father and mother near a Public Toilet, the accused persons came there along with lethal weapons and attacked the Prabakaran due to personal enmity. In the said incident the said Prabakaran died and his father sustained severe injuries all over the body and his mother also sustained injury when she tried to prevent the assault. His father Annadurai gave a statement in the hospital and that was registered by the Police and pursuant to that, an FIR was registered at 11.55 p.m., and the same was forwarded to the learned Magistrate at 3.35 a.m.,

4. Pending trial, the said Annadurai was done to death. According to the prosecution, the said Annadurai died due to the attack of the accused persons, but however, in the trial, they were acquitted. P.W.1 (Jeyalakshmi) has deposed about the incident. Relying upon the contra evidence by P.W.6, who is the daughter-in-law of the deceased Annadurai and P.W.1, the learned counsel for the petitioner tried to impress upon this Court that the presence of P.W.1 at scene of crime, is highly doubtful. However, the trial Court has gone into the evidence of other witnesses along with the evidence of P.W.1, who is an injured witness and has arrived at a conclusion that this petitioner is guilty of the offence under Section 302 r/w 34 IPC.

5. On perusal of records, this Court finds that this is the third application for suspension of sentence and earlier two applications were dismissed as withdrawn.

6. This Court, for considering the suspension of sentence expects some reason to believe that there is an error in the judgment by the trial Court however, this Court in this case does



not find any such error in the trial Court judgment. Hence applications are dismissed.

7. At request of the learned counsel for the appellants, post the main appeal in the third week of April, 2023 for final hearing.

sd/-

14/02/2023

WEB COPY

/ TRUE COPY /

/02/2023

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

AM
TO

- 1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUCHIRAPPALLI.
- 2 THE INSPECTOR OF POLICE
THILLAINAGAR POLICE STATION,
THILLAINAGAR,
TIRUCHIRAPPALLI-620 018.
- 3 THE SUPERINTENDENT
CENTRAL PRISON, TIRUCHIRAPPALLI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl.M.P.(MD) Nos.14809 &
14810 of 2022
in
Crl.A.(MD) No.419 of 2021
Date :14/02/2023

PKP/VR/SAR-1/24.02.2023/3P/5C