



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.15173 of 2022

in

CRL A(MD)No.840 of 2022

SAMCHITRAVEL

... PETITIONER/APPELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
MUNEERPALLAM POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.46 OF 2020.

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspension of Sentence imposed in the conviction Judgment passed by the Principal Sessions Judge, Tirunelveli in Sessions Case No.289 of 2021 dt.1.11.2022 and enlarge the Petitioner/Appellant on bail pending disposal of the Criminal Appeal.

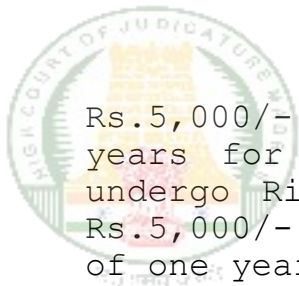
Prayer in CRL A(MD)No. 840 OF 2022:

Pleased to call for the records relating to the Principal Sessions Judge, Tirunelveli in Sessions Case No.289 of 2021 dated 01.11.2022 and set aside the same and to acquit the Appellant/Sole Accused by allowing the present 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 N.ANANTHA PADMANABHAN, Senior Counsel for MR.T.SIVANANTHAN, Advocate for the petitioner and of MR.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/sole accused to suspend the sentence imposed by the learned Principal Sessions Judge, Tirunelveli, in Sessions Case No.289 of 2021, dated 01.11.2022 and enlarge the petitioner/appellant on bail pending the Criminal Appeal.

2. The petitioner is the sole accused in the said case and against whom the trial Court has given conviction for the offences punishable under Sections 302 and 201 I.P.C., and punished him to undergo Rigorous Imprisonment for Life and to pay a fine of



Rs.5,000/- and in default to undergo imprisonment for further years for the offence under Section 302 I.P.C. and sentenced to undergo Rigorous Imprisonment for 3 years and to pay a fine of Rs.5,000/- in default to undergo Imprisonment for a further period of one year, for the offence under Section 201 I.P.C.

WEB COPY

3. Heard Mr.N.Ananthapadmanabhan, learned Senior Counsel appearing for the petitioner and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing for the respondent.

4. On the side of the prosecution, P.Ws.1 to 19 were examined and Exs.P.1 to P.15 were marked and also one material object was marked as P.M.O.1.

5. When we gone through the judgment under appeal, we find that, the trial Court mainly on the basis of the evidence of P.Ws.3 to 6, who supported the theory of last seen of accused along with the deceased, convicted the petitioner / accused.

6. However, the main crucial witness i.e., P.W.3 in his deposition has stated that, he has received the accused and deceased from Tiruchendur and thereafter, he has brought the accused and deceased to the site place and then they had been taking drinks and dinner.

7. At the midnight, the accused wake up the P.W.3 and informed that the deceased was not present there and further informed that, he heard the noise from the well.

8. This evidence has been mainly relied upon by the prosecution, which has been accepted by the trial Court and in support of which, according to the prosecution, the extra judicial confession given by the accused as well as the witnesses had been taken into account based on which only the conviction had been inflicted against the petitioner / accused.

9. Insofar as the theory of last seen of the accused along with the deceased as well as the extra-judicial confession are concerned, whether based on which the conviction given by the trial Court in the judgment under appeal is justifiable has to be gone into by this Court during the final hearing.

10. However, it will take some time to take up the main appeal for final hearing and in view of the aforestated circumstances, *prima facie*, we feel that the aforestated evidence and circumstances alone since had influenced the learned Judge of the trial Court to give the conviction against the accused, we feel for the present the sentence can be suspended and the petitioner / accused can be enlarged on bail for the aforestated reasons.

11. Accordingly, this petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment is

<https://www.judiciary.gov.in/> subject to the following conditions:-



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

WEB COPY

(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 petitioner shall appear before the learned Principal Sessions Judge once in a month, the first such appearance he shall make insofar as April, 2023 is concerned, on 24.04.2023 at 10.30 a.m. and subsequently every month on the first working day of English Calender he shall appear before the said Court at 10.30 a.m. until further orders and if he is not able to appear before the said Court on any day, he 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 his absence, as directed by the said Court.

sd/-

10/04/2023

/ TRUE COPY /

11/04/2023

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

SJ
TO

- 1 THE PRINCIPAL SESSIONS JUDGE, TIRUNELVELI.
 - 2 THE INSPECTOR OF POLICE
MUNEERPALLAM POLICE STATION, TIRUNELVELI DISTRICT.
 - 3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s. APN LAW ASSOCIATES, Advocate (SR-5588[I])

ORDER

IN

CRL MP(MD) No.15173 of 2022
in

CRL A(MD) No.840 of 2022

Date : 10/04/2023

PKP/VR/SAR- /11.04.2023/ 3P/6C

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