



CRL MP(MD) No.2155 of 2024

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

Thursday, the Twenty Second day of August Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN
and
The Hon`ble Mr.Justice J.SATHYA NARAYANA PRASAD

CRL.M.P.(MD)No.2155 of 2024
in
CRL.A.(MD)No.142 of 2024

1 S.RAJANPAL

2 S.SEENIAPPAN

... APPELLANT/ACCUSED 1 TO 2

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
SIVAKASI SUB DIVISION,
VIRUDHUNAGAR DISTRICT.

2 THE INSPECTOR OF POLICE
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.534/2012)

... RESPONDENTS/COMPLAINANTS

Criminal Miscellaneous 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 on the petitioner by order dt.29.12.2023 passed in Spl SC No.52/2012 on the file of the Learned Sessions Judge, Special Court for Trial of SC/ST(POA) Act Cases Virudhunagar District at Srivilliputtur and enlarge the petitioner on bail pending disposal of the above criminal appeal.



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Prayer in Crl.A(MD).142/2024:

Pleaded to call for the records pertaining to the Judgment made in Spl.S.C.No.52 of 2012 dated 29.12.2023 passed by the learned Sessions Judge, Special Court for Trial of SC/ST(POA) Act Cases, Virudhunagar District at Srivilliputtur and set aside the same by allowing this appeal.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.G.KARUPPASAMY PANDIAN, Advocate for M/S.DINESH.K, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondents, the court made the following order:-

The accused Nos.1 and 2, in Spl.S.C.No.52 of 2012 on the file of the Sessions Court / Special Court for Trial of SC / ST (POA) Act Cases, Srivilliputhur, who have been convicted for the offence under Section 302 IPC and sentenced to undergo life imprisonment and fine of Rs.5,000/- each, in default to undergo six months simple imprisonment, but acquitted for the offence under Sections 3(2)(v) and 3(1)(x) of SC / ST (POA) Act, have filed this petition, seeking suspension of sentence.

2.It is to be mentioned that along with the petitioners there were five other accused, who were arrayed as the accused Nos.2 to 7. The 3rd accused died during the pendency of the trial. Therefore, the charges against him had abated. The accused Nos.4 to 7 were acquitted of all charges.

3.The case of the prosecution is that the informant belonged to Hindu Sakiliyar Community and the deceased was his son. The accused persons belonged to Nadar Community. The 3rd accused was a relative of the 1st accused and the other



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accused were friends of the 1st accused. The deceased was working in Gajalakshmi Sound Service in a place, which belonged to one Ilankumaran, who was examined as P.W.5. This place was situated at Thiruthangal Nadar Pillaiyar Kovil Street. The 1st accused was also running a cutting company in a rental shop. Technically, the 1st accused was the tenant under P.W.5.

4.It is stated that three months before the occurrence, the 1st accused vacated the rental shop and commenced his business in a place where he was previously doing business. The premises vacated by the 1st accused was taken over by the owner of Gajalakshmi Sound Service for rent. Thereafter, owing to disputes relating to rents to be returned back, there was a quarrel between the 1st accused and P.W.5. Therefore, P.W.5, Ilankumaran lodged a complaint on 28.08.2012. The 1st accused was under a misconception that the deceased, who was working in Gajalakshmi Sound Service, was instrumental in the lodging of the said complaint.

5.This is said to be the motive and it is the case of the prosecution that all the accused had gathered together and murdered the deceased at 5.00 a.m., on 29.08.2012. However, all the accused had been acquitted of the charges under the provisions of the SC / ST (POA) Act. The accused Nos.1 and 2, however, had been convicted under Section 302 IPC.

6.The entire evidence revolves upon the deposition of P.W.2. However, the



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learned Sessions Judge, while appreciating the evidence, had categorically returned a finding that P.W.2 was neither wholly reliable nor wholly unreliable. If that particular conclusion had been arrived at by the learned Sessions Judge, naturally, he ought to have looked for further corroboration of the evidence of P.W.2.

7.This is the law as stated in the case of Vadivelu Thevar Vs. State of Madras reported in AIR 1957 SC 614, wherein the Hon'ble Supreme Court had witnessed tendering oral evidence into three categories:- (i) those whose evidence is completely reliable; (ii) those whose evidence is not at all reliable; and (iii) those whose evidence is partly reliable and partly unreliable.

8.Corroboration is required for such evidence. It is contended that there is no corroboration for the evidence of P.W.2.

9.Taking this factor for consideration and also considering the fact that the accused Nos.1 and 2 have been convicted, while the accused Nos.4 to 7 were acquitted of all charges and also the period of incarceration suffered by the accused Nos.1 and 2 / petitioners herein, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioners. Accordingly, this petition is 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



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Rs.25,000/-, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sivakasi;

(ii)The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the concerned 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 Sessions Court / Special Court for Trial of Cases under SC/ST (POA) Cases at Srivilliputhur once in a month on the first working day of every English Calender month at 10.30 a.m., until the disposal of the appeal and if they are not able to appear before the concerned Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the concerned Court.

sd/-
22/08/2024

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23/08/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO
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1 THE SESSIONS JUDGE,
SPECIAL COURT FOR TRIAL OF SC/ST(POA) ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE JUDICIAL MAGISTRATE,
SIVAKASI.

3 DO THROUGH THE CHIEF JUDICIAL
MAGISTRATE, VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

5 THE DEPUTY SUPERINTENDENT OF POLICE,
SIVAKASI SUB DIVISION,
VIRUDHUNAGAR DISTRICT.

6 THE INSPECTOR OF POLICE
THIRUTHANGAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.

7 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,

MADURAI

<https://www.mmc.tn.gov.in/jdis>



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+1 CC to M/s.K.DINESH, Advocate (SR-10314[I] dated 23/08/2024)

ORDER
IN
CRL.M.P.(MD)No.2155 of 2024
in
CRL.A.(MD)No.142 of 2024
Date :22/08/2024

SA/SAR. /23.08.2024/7P/9C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.