



Crl.M.P.(MD).Nos.14281 of 2022 and 6335 of 2023

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

Tuesday, the Thirtieth day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and
The Hon`ble Mr.Justice K. RAJASEKAR

Crl.M.P.(MD).Nos.14281 of 2022 and 6335 of 2023
in
Crl.A.(MD).Nos.794 of 2022 and 317 of 2023

BALAGANESH

... PETITIONER/ APPELLANT/
ACCUSED NO.3
IN CRL MP(MD)NO.14281/2022

VIGNESH

...PETITIONERS/ APPELLANTS/
ACCUSED NO.4
IN CRL MP(MD)NO.6335/2023

Vs

THE INSPECTOR OF POLICE
THEPPAKULAM POLICE STATION,
MADURAI CITY.
CRIME NO.954 OF 2018.

... RESPONDENT/RESPONDENT/
COMPLAINANT
IN BOTH CASES

PRAYER IN CRL MP(MD)No.14281 of 2022

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 the VI Additional District and Sessions Judge, Madurai by its judgment in SC.No.82 of 2019 dt.14.7.2022 and enlarge the Petitioner on bail pending disposal of the Criminal Appeal.



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Prayer in Crl.A.(MD)No.794 of 2022 :

Pleaded to call for the records of the impugned judgment made in S.C.No.82 of 2019 on the file of the Learned VI Additional District and Sessions Judge, Madurai District dated 14.07.2022 and set aside the same.

Prayer in CRL MP(MD). 6335/ 2023 :

To suspend the sentence imposed on the petitioner by the VI Additional District and Sessions Judge, Madurai by its judgment in SC No.82/2019 dated 14.07.2022 and enlarge him on bail pending disposal of the Criminal Appeal

PRAYER IN CRL A(MD)No.317 of 2023:

To call for the records of the impugned judgment made in S.C.No.82 of 2019 on the file of the Learned VI Additional District and Sessions Judge, Madurai district dated 14.07.2022 and set aside the same.

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

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

The case of the prosecution is as follows:

(i) On 18.10.2018 at about 20.45 PM at Deivakani Street, Anupanadi, Madurai, when Pravinkumar, (the deceased) was sitting and looking his mobile phone in front of the house of P.W.2, all the accused along with two more accused (juvenile accused) with the previous motive to murder Pravinkumar, assembled unlawfully in front of the Devenrakula Vellalar Community Hall, with deadly weapons and on seeing



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Pravinkumar, A1 shouted and upon hearing the same, Pravinkumar had run from that place and when he was running, A1 cut him with an aruval on his head and in front of the Community Hall, A2 and A3 had cut Pravinkumar with swords and A4 along with other two juvenile accused, had caught hold of P.W.1 to facilitate A1 to A3 to murder Pravinkumar and when Pravinkumar collapsed, all the accused had intimidated the witnesses and escaped from the scene of occurrence. When Pravinkumar was rushed to the hospital, he was declared as 'brought dead'.

(ii) On receipt of the complaint (Ex.P1) from Balagururaja, P.W.1, the Sub Inspector of Police, Theppakulam Police Station had registered the FIR (Ex.P10) in Crime No.954 of 2018 against eight accused persons for the offences under Sections 147, 148, 294(b), 341, 302 and 506(ii) r/w 34 IPC.

(iii) The Inspector of Police, Theppakulam Police Station, Nagarajan took up the investigation and visited the scene of occurrence and prepared the observation mahazar and rough sketch and examined the witnesses and prepared the inquest report and sent the body of the deceased Pravinkumar for postmortem. He had arrested the accused and on the basis of the confession of the accused, he had recovered the weapons and the blood stained articles and sent the accused to judicial custody. After collecting the medical and forensic reports, he completed the

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investigation and filed the final report under Section 173(2) of the Cr.P.C.

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(iv) After taking the final report as P.R.C.No.19/2019, the learned Judicial Magistrate No.1 had furnished the copies of the case records to the accused on free of cost under Section 207 Cr.P.C and the case was committed to the Principal Sessions Judge, Madurai. The case was taken as Sessions Case No.82 of 2019.

(v) On appearance of the accused, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the Trial Court, after hearing the accused, framed the following charges:

Accused	Charge I	Charge II	Charge III	Charge IV
A1 - Kannan	148 IPC	294(b) IPC	302 r/w 149 IPC	506(ii) IPC
A2 - Rajavelu	148 IPC	-	302 r/w 149 IPC	506(ii) IPC
A3 - Balaganesh	148 IPC	-	302 r/w 149 IPC	506(ii) IPC
A4 - Vignesh	148 IPC	-	302 r/w 149 IPC	506(ii) IPC

(vi) When questioned, the accused pleaded 'not guilty'. To prove the case, the prosecution examined 30 witnesses and marked 16 exhibits and 21 material objects. When the accused were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he denied the



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same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused nor any document marked.

(vii) By judgment dated 14.07.2022, the Trial Court found A1 to A3 guilty for the offence under Section 148, 302 r/w 149 and 506(ii) IPC and A4 was found guilty for the offence under Section 302 r/w 149 and 506(ii) IPC. A1 was found not guilty for the offence under Section 294(b) IPC and A4 was found not guilty for the offence under Section 148 IPC. The Trial Court convicted and sentenced the accused as follows:

Accused	Section of law	Sentence of Imprisonment	Fine amount
A1 to A3	148 IPC	3 years of rigorous imprisonment	Rs.5000/- in default to undergo 3 months simple imprisonment
A1 to A4	302 r/w 149 IPC	Life imprisonment	Rs.50,000/- in default to undergo one year simple imprisonment



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A1 to A4	506(ii) IPC	7 years rigorous imprisonment	Rs.10,000/- in default to undergo 6 months simple imprisonment
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2. Challenging the said conviction and sentence, A4, Vignesh, has filed Crl.A.(MD).No.317 of 2023 and A3, Balaganesh has filed Crl.A.(MD).No.794 of 2022. Pending appeals, they have filed the present Criminal Miscellaneous Petitions seeking for suspension of sentence.

3. The learned counsel appearing for the petitioners submitted that though P.W.1 has specifically named eight persons in the FIR and attributed specific overt acts against them, the respondent, after completion of investigation, has filed the final report only in respect of six persons. Further, in the complaint Ex.P1, P.W.1 has stated about the deceased sitting near the house of one Ajith and accused are alleged to have chased him from the house of Ajith, whereas, in Ex.P14, the rough sketch, the house of Ajith is not mentioned. In the evidence placed before the Court, P.W.1 has shifted the place of occurrence stating that his brother/deceased was sitting in the ppyal of his aunt along with his friends. This aspect creates a doubt with regard to the



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presence of P.W.1 at the place of occurrence and he having seen the occurrence. The learned counsel further submitted that non-recovery of the clothes of P.W.1 also creates a doubt with regard to his presence in the scene of occurrence. He would also submit that the presence of P.W.2 and P.W.10 in the scene of occurrence has not been spoken by P.W.1 in the complaint Ex.P1. There are also several other grounds in the appeals and the likelihood of the appeals being taken up for final hearing in the near future is also not possible, thereby he prayed for suspension of sentence.

4. The respondent has filed a counter in respect of A4 alone. The learned Additional Public Prosecutor would submit that it is a case of conspiracy and murder and the accused have joined together and had committed the murder of the brother of P.W.1. P.W.1, P.W.2 and P.W.10 are eye witnesses to the occurrence and their evidence is very cogent. The Trial Court taking into consideration the evidence placed on record and finding that the prosecution has proved its case beyond all reasonable doubts, has found the accused guilty and convicted them. He would further submit that there are specific overt acts against both the accused and as far as A4, Vignesh/petitioner in Crl.M.P.(MD).No.6335 of 2023, is concerned, he is a habitual offender and he was involved in 10 cases including this murder case, out of which, two are registered for the offence under Section 307 IPC.



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5. Heard both sides and perused the materials available on record.

6. As far as the fourth accused, Vignesh is concerned, there are specific overt acts against him. As far as the third accused, Balaganesh is concerned, this Court is convinced that it is a case of grant of suspension of sentence. Accordingly, Crl.M.P. (MD).No.6335 of 2023 filed by A4 is dismissed. Crl.M.P.(MD).No.14281 of 2022 filed by A3 is allowed and the substantive sentence of imprisonment alone imposed on the petitioner in Crl.M.P.(MD).No.14281 of 2022/A3 is suspended, subject to the following conditions:

i. The petitioner/A3 is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Trial Judge.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioner shall stay at Chennai and report before the



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Inspector of Police, Esplanade Police Station, Chennai daily at 10.30 a.m.

until further orders.

sd/-
30/04/2024

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/05/2024

Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO

1.THE VI ADDITIONAL DISTRICT AND SESSIONS JUDGE,MADURAI.

2 THE PRINCIPAL SESSIONS JUDGE, MADURAI.

3.THE INSPECTOR OF POLICE
THEPPAKULAM POLICE STATION, MADURAI CITY.

4.THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

COPY TO

THE INSPECTOR OF POLICE, ESPLANADE POLICE STATION, CHENNAI

ORDER IN

Crl.M.P.(MD).Nos.14281 of 2022 and 6335 of 2023
in Crl.A.(MD).Nos.794 of 2022 and 317 of 2023

Date :30/04/2024

RK (08/05/2024) 9P / 7C

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