



CRL.A.(MD)No.904 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Third day of October Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN

and

The Hon`ble Ms.Justice R. POORNIMA

CRL.M.P.(MD)Nos.18, 882, 905 of 2024

in

CRL.A.(MD)No.904 of 2023

BALAKRISHNAN

... PETITIONER/ APPELLANT/ ACCUSED 3
IN CRL.MP(MD).18/2024

MANIKANDAN

... PETITIONER/ APPELLANT/ ACCUSED 1
IN CRL.MP(MD).882/2024

SHANMUGAM

... PETITIONER/ APPELLANT/ ACCUSED 2
IN CRL.MP(MD).905/2024

Vs

THE INSPECTOR OF POLICE
GANGAIKONDAN POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.54/2015.

... RESPONDENT/RESPONDENT/COMPLAINANT
IN ALL TH PETITIONS



CRL.A.(MD)No.904 of 2023

Prayer in CRL MP(MD). 18/ 2024 :

To Suspend the sentence imposed on the petitioner in SC No.547/2017 on the file of the Learned 3rd Additional District and Sessions Judge, Tirunelveli District dt.01.09.2023.

Prayer in CRL MP(MD). 882/ 2024 :

To Suspend the Sentence imposed on the Petitioner in SC.No.547 of 2017 on the file of the Learned III-Additional District and Sessions Judge, Tirunelveli District dt.1.9.2023.

Prayer in CRL MP(MD). 905/ 2024 :

To Suspend the Sentence imposed on the Petitioner in SC.No.547 of 2017 on the file of the Learned III-Additional District and Sessions Judge, Tirunelveli District dt.1.9.2023.

Prayer in CRL.A.(MD)No.904 of 2023:

To call for the records and set aside the judgment of conviction passed in SC.No.547 of 2017 dated 01.09.2023 by the Learned III Additional District and Sessions Judge, Tirunelveli and allow this Criminal Appeal.

Order : These Criminal Miscellaneous Petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S.THALAIMUTHARASU.G, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor on behalf of the Respondent in all the Petitions, the court made the following order:-

A1 has filed CrI.M.P(MD) No.882 of 2024, A2 has filed CrI.M.P(MD) No.905 of 2024 and A3 has filed CrI.M.P(MD) No.905 of 2024 seeking suspension of sentence consequent to the conviction on the three petitioners in S.C. No.547 of 2017 on the file of the learned III Additional District and Sessions Judge, Tirunelveli by judgment dated 01.09.2023.



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2.All of them have been imposed life imprisonment for the substantial offence punishable under Section 302 of IPC and apart from other conviction and other offences under the Indian Penal Code.

3.It is the case of the prosecution that these petitioners are closely related to each other. On 08.04.2015 at about 7.00 p.m., the dog belonging to A4 had bitten the puppy belonging to P.W.1. This was the direct cause for enmity between the family of the deceased and the family of the accused . The deceased is the son of P.W.1. On 08.04.2015, he had gone to his work place in his TVS -50 and at around 7.00 p.m., it is stated that P.W.1 notice A4 talking to some one and told that the life of the deceased will be finished on that day itself. Thereafter P.W.1 brought his sister's son and went in searched near Karisalkulam bus stop they saw A1 attacking the deceased in the left side of the eye brow on the right shoulder using aruval, A2 cutting the deceased on the back side of the left neck with aruval, A3 cutting the deceased in his left side middle finger, ring finger and little finger also by using aruval and also he had right shoulder. The deceased collapsed in a pool of blood, consequent to which First Information Report in Crime No. 54 of 2015 had been registered by the Kayathar Police Station for offences under Section 147,148,294(b),302 of IPC against five accused.



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4.A4 had been convicted for the offence punishable under Section 341 of IPC and A5 had been convicted. These three petitioners have been convicted for the major offence punishable under Section 302 of IPC. It is submitted that they have been continued incarceration for a considerable period of time.

5.The learned counsel appearing for the petitioner had pointed out that there are no eye witnesses and the evidence of P.W.1 in this regard is extremely doubtful. In Ex.P.16 inquest report it had been stated that the body of the deceased was found on 08.04.2015 at about 09.45 pm., whereas at around 08.10 pm., itself the body had been shifted to Government hospital. It had also been stated that according to P.W.1 he had remained at the Kayathar police station over night on 08.04.2015 and it is therefore stated that the complaint could not have been lodged at 07.45 pm., on 08.04.2015 as stated. It is stated by the learned counsel for the petitioner that the incident is a stand alone incident and there was a sudden quarrel which led to attack by the accused against the deceased.

6.The learned Additional Public Prosecutor however raised objection by stating that investigation had been done properly and that the evidence has been let in on the side of the prosecution had withstood cross examined. The learned Additional Public Prosecutor further stated that previous cases are pending against A1 and A2. But, however, the incident had happened owing to the fight between



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the two dogs of A4 and P.W.1

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7.Taking into consideration all the facts and also considering the fact that there are arguable points in the appeal, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioners. Accordingly, this Criminal Miscellaneous Petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment, dated 01.09.2023 is suspended subject to the following conditions:-

- i. The petitioners are directed to be enlarged on bail on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only), each with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Tirunelveli
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the (*) Judicial Magistrate No.III, Tirunelveli may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioners shall sign before the learned III Additional District and Sessions Judge, Tirunelveli on the first working day of every English Calendar month at 10.30 AM until further orders.



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iv. It is made clear that the petitioners shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
03/10/2024

(*)Corrected as per order of this Hon'ble Court in CRL MP(MD).18, 882, 905 of 2024 in CRL A(MD).904 of 2023 dated 15/10/2024

/ TRUE COPY /

/10/2024
Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO

TO BE SUBSTITUTED WITH THE ORDER ALREADY DESPATCHED ON 04/10/2024

1 THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE NO.III, TIRUNELVELI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

5 THE INSPECTOR OF POLICE, GANGAIKONDAN POLICE STATION, TIRUNELVELI DISTRICT.

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



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+3. C.C. to M/S.THALAIMUTHARASU.G Advocate SR.No.12148 DT.03/10/2024

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ORDER

IN

CRL.M.P.(MD)Nos.18, 882, 905 of 2024

in

CRL.A.(MD)No.904 of 2023

Date :03/10/2024

SA/SAR. /04.10.2024/7P/10C

RS/VR/SAR. /16.10.2024/7P/10C

Madurai Bench of Madras High Court is issuing
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