

Crl.MP.No.2681/2016 in Crl.A.No.194/2016

M.JAICHANDREN, J.

AND

S.NAGAMUTHU, J.,

[Order of the Court made by S.NAGAMUTHU, J.,]

The petitioner/appellant is the sole accused in SC.NO.212/2014 on the file of the learned I Additional Sessions Judge, Salem. By judgment dated 22.12.2015, the Trial Court has convicted him for the offence u/s.302 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to undergo six months simple imprisonment. Challenging the said conviction and sentence, the appellant has preferred the above appeal. Pending appeal, he seeks for suspension of sentence.

2 Heard the learned counsel for the petitioner/appellant and the learned Government Advocate [Crl.Side] appearing for the State and also perused the records carefully.

3 This is a case based on the eyewitness account. P.Ws.1 to 3 are the eyewitnesses to the occurrence, who have vividly spoken about the entire occurrence. There is no delay in preferring the complaint also. Thus, we do not find any reason to suspend the sentence. Learned counsel for the appellant would submit that at the earliest point of time, when the deceased was taken to the hospital, he told the doctor that the occurrence had taken place in front of the his house, whereas, according to the

case of the prosecution, the occurrence had taken place in front of the house of the

M.JAICHANDREN, J.,
AND
S.NAGAMUTHU, J.,
AP

accused. This, in our considered view, is not a material contradiction, which could be made at this stage, when we are considering the petition seeking suspension of sentence. When there is a clear evidence of three eyewitnesses in respect of the occurrence, giving undue weightage for this discrepancy, we cannot grant suspension of sentence to the petitioner herein. We are also of the firm view that this is not a fit case at all to grant the relief of suspension of sentence.

4 Accordingly, the miscellaneous petition is dismissed.

[M.J., J.] [S.N., J.]
29.03.2016

AP

Crl.MP.No.2681/2016 in Crl.A.No.194/2016