

Crl.MP.No.2859/2016 in Crl.A.No.617/2015

M.JAICHANDREN, J.

AND

S.NAGAMUTHU, J.,

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

The petitioners/appellants are the accused 1 to 3 in SC.NO.25/2015 on the file of the learned Sessions Judge, Mahalir Needhimandaram, Fast Track Court, Erode District. By judgment dated 17.08.2015, the Trial Court convicted A1 and A2 for the offences u/s.460, 394 and 302 read with 107 IPC and convicted A3 for the offences u/s.460, 394 and 302 IPC and the maximum sentence imposed upon them is imprisonment for life. Challenging the said conviction and sentence, the appellants have preferred the above appeal. Pending appeal, they seek for suspension of sentence.

2 Heard the learned counsel for the petitioners/appellants 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 of P.Ws.1 to 3, who have vividly spoken about the entire occurrence. The prosecution also relies on the recovery of two bangles from A1 and A2 on their disclosure statements, which were worn by the deceased. Learned counsel would however submit that the accused were not already known to P.Ws.1 to 3 ; but in the FIR itself, their names do find place. He would further take us through the cross-examination of P.W.1, wherein, P.W.1 has admitted that before going to the Police Station for preferring complaint, he had a deliberation with his relatives.

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4 We have considered the submissions.

5 In our considered view, the above said stray answer elicited in the cross-examination that P.W.1 had deliberation with his relatives, cannot be given literal meaning to say that they deliberated upon the names of the accused and thus, preferred the complaint. P.W.1 explained that at the time when the occurrence had taken place, the names came to light because the accused called among themselves by name. At any rate, there is very strong evidence in respect of the recovery of stolen articles from the possession of the accused. Going by the nature of offence said to have been committed and all the other materials available on record, we are of the considered view that it is not a fit case to suspend the sentence of the accused/petitioners.

6 Accordingly, the miscellaneous petition is dismissed.

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

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