

Crl.M.P.No.3180 of 2016 in Crl.A.No.211 of 2016

S.NAGAMUTHU, J.
AND
V.BHARATHIDASAN, J.

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

The petitioner is the 3rd accused in S.C.No.261 of 2012 on the file of the learned II Additional Sessions Judge, Poonamallee at Tiruvallur District. By judgment dated 15.09.2015, he has been convicted for offence under Section 302 of IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for one year. Challenging the said conviction and sentence, the appellant/3rd accused has preferred the above appeal. Pending appeal, he seeks for suspension of sentence.

2. Heard, Prof.S.Krishnaswamy, the learned counsel for the petitioner/appellant and Mr.R.Prathap Kumar, the learned Government Advocate (Crl. Side) appearing for the State and we have also perused the records carefully.

3.This case is based on circumstantial evidence. The only circumstance incriminating against the accused is that all the accused were found taking the deceased towards the place of occurrence on 17.09.2010 whereas the dead body of the deceased was found on 20.09.2010.

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4. It is the contention of the learned Counsel for the petitioner that had it been true that P.Ws.3, 4 and 13 who have spoken about the above fact is true, they would have informed the same to the parents of the deceased immediately. But, until the body was recovered on 20.09.2010, this fact was not disclosed to anybody.

5. We find some force in the said argument of the learned Counsel for the petitioner. Therefore, we are inclined to suspend the substantive sentence of imprisonment of the petitioner/3rd accused.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Poonamallee, and on further condition that the petitioner shall report before the Committal Court on the first working day at 10.30 a.m. of every English Calendar month, until further orders.

[S.N.J.,] [V.B.D.J.,]

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03.06.2016

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Crl.M.P.No.326/2016 in Crl.A.No.24/2016

10.02.2016