

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighteenth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.10228 of 2017

IN CRL A.509/2017

1 AYYAVU [PETITIONERS/APPELLANTS/ACCUSED]
2 BOOPATHY,
3 BABY,
4 ARUNAGIRI,

Vs

STATE BY [RESPONDENT]
INSPECTOR OF POLICE,
KONDALAMPATTI POLICE STATION,
SALEM DISTRICT.
CR.NO.60 OF 2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal A. No.509 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners by the Sessions Judge, Mahila Court, Salem in S.C.No.110 of 2015 by judgment dated 31.7.2017 and enlarge on bail, pending disposal of the CRL.A.NO.509/2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.509 of 2017 on the file of the High Court and upon hearing the arguments of MR.B.VASUDEVAN, Advocate for the petitioner and of MR. C.IYYAPPARAJ, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence of imprisonment imposed on the petitioners in the judgment dated 31.07.2017 made in S.C.No.110 of 2015 on the file of the learned Sessions Judge, Mahila Court, Salem, confirming the judgment dated 20.03.2015 made in P.R.C.No.4 of 2015 on the file of the learned Judicial Magistrate, Additional Mahila Court, Salem.

2. The petitioners have been convicted by the trial Court for the offences under Sections 498(A), 306 IPC and accordingly they are convicted and sentenced for the offence under Section 498(A) IPC to undergo 3 years rigorous imprisonment and pay a fine of Rs.2,000/- of each accused in default of payment to undergo 6 months simple imprisonment and also sentenced for offences under Section 306 IPC to undergo 10 years rigorous imprisonment and pay a fine of Rs.2,000/- by each accused in default of payment of the fine amount to undergo 6

months simple imprisonment and they shall undergo the punishment concurrently.

3. The learned counsel appearing for the petitioners has pointed out that except the chief examination of PW1, who is the father of the deceased and the inquest report prepared by the Revenue Divisional Officer, no other evidence or material available for the prosecution and only based on these witness/document the trial Court has convicted the petitioners.

4. On perusal of the deposition of PW1, it is found that he is an illiterate and though he has stated against the petitioners in the chief examination which was taken on 05.03.2016, however, he has given contra statement and in fact, deposed in favour of the petitioners in his cross examination, which was taken on 16.03.2016. The prosecution has also not treated the PW1 as hostile witness. Like that PW2, who is the mother of the deceased, also has given elaborate evidence in her cross examination, after she has been treated as hostile witness, in favour of the petitioners.

5. On consideration of these evidences, which are the only oral evidences recorded by the trial Court, this Court is able to come to the prima facie view that certainly there are strong case in favour of the petitioners and therefore the same have to be taken into account for decision and it would be possible only at the time of final hearing of the appeal. Therefore, taking into consideration of these facts and circumstances as well as the depositions of PW1 and PW2, this Court is of the view that, at this juncture, the sentence imposed against the petitioners can be suspended as an interim measure.

6. Hence this Court is inclined to consider the suspension of sentence alone and release the petitioners on bail. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are released on bail on the following conditions :-

(i) each of the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Additional Mahila Court, Salem, within a period of four weeks from today and also

(ii) these petitioners shall appear before the trial Court on the first working day of every calender month at 10.30 a.m. until further orders.

-sd/-

18/08/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
ADDL. MAHILA COURT, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE SESSIONS JUDGE,
MAHILA COURT, SALEM.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
KONDALAMPATTI POLICE STATION,
SALEM DISTRICT.

C.C. to M/S.B.VASUDEVAN Advocate on payment of necessary
charges

Order

in
CRL MP.10228/2017

in
CRL A.509/2017

Date :18/08/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
ths : 18.08.2017