

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourteenth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.11614 of 2017

IN CRL A.589/2017

EZHILARASAN,

[PETITIONER]

Vs

THE DEPUTY SUPERINTENDENT OF [RESPONDENT]
POLICE, TIRUPATTUR SUB DIVISION,
TIRUPATTUR TALUK POLICE STATION.
CR.NO.729 OF 2012.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.589/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner in the Judgment passed in Special Sessions Case No.07 of 2014 dated 06.09.2017 on the file of the Court of the Principal Sessions Judge, Vellore, Vellore District and enlarge the petitioner on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.589/2017 on the file of the High Court and upon hearing the arguments of M/S.S.DORAISAMY, Advocate for the petitioner and of MR. K. MADHAN Govt. Advocate (crl. Side) on behalf of the Respondent the court made the following order:-

Senpagavalli [A1], Venkatesan [A2] and Ezhilarasan [A3] were tried in Spl.S.C.No.7 of 2014 by the Principal Sessions Judge, Vellore and were convicted on 06.09.2017 for offences under Sections 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and Sections 324 and 326 IPC.

2. Senpagavalli [A1] and Venkatesan [A2] were awarded the maximum sentence of one year Rigorous Imprisonment and their

sentences were suspended by the trial Court. At the time of admission of the appeal, this Court, in CrI.M.P.No.11615 of 2017 in CrI.A.No.589 of 2017, has suspended the sentence and released them on bail by order dated 18.09.2017.

3. Ezhilarasan [A3], the petitioner herein, has been sentenced to a maximum of 5 years Rigorous Imprisonment for the offence under Section 326 IPC (2 counts) and was also directed to pay a fine of Rs.1,000/- for each count.

4. It is the case of the prosecution that Ezhilarasan [A3] is the son of Senpagavalli [A1] and Venkatesan [A2]; that there was a land dispute between the family of the accused and the family of the de facto complainant and that all the accused abused the de facto complainant by his caste name and attacked him, resulting in serious injuries.

5. Learned counsel for Ezhilarasan [A3] submitted that the trial Court had failed to appreciate the contradictions in the evidence of the de facto complainant and did not give due weightage to the defence set up by the accused.

6. Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioner that there are several infirmities in the prosecution case in respect of the petitioner and that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Tirupathur and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(ii) the petitioner shall appear before the trial Court on the first working day of every month until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on

any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-

14/12/2017

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 PRINCIPAL SESSIONS JUDGE
VELLORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

4 THE DEPUTY SUPERINTENDENT OF
POLICE, TIRUPATTUR SUB DIVISION, TIRUPATTUR
TALUK POLICE STATION. CR.NO.729 OF 2012.

+1 C.C. to M/S.S.DORAISAMY Advocate on payment of necessary charges Sr.No.22613

Order
in
CRL MP.11614/2017
in
CRL A.589/2017

Date :14/12/2017

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MD: 14/12/2017