

Crl.M.P.No.13770 of 2016 in
Crl.A.No.841 of 2016

S.NAGAMUTHU.J.,
AND
N.AUTHINATHAN.J.,

(Order of the Court was made by S.NAGAMUTHU,J.)

The appellants are the accused 1 to 7 in S.C.No.270 of 2015, on the file of the III Additional District and Sessions Judge, Cuddalore at Virudhachalam. The accused 1, 3, 4, 5 and 6 have been convicted under Section 302 of the Indian Penal Code. A2 and A7 have been convicted under Section 302 read with Section 149 of IPC. A1 to A7 have also been convicted under Section 449 and 148 of IPC. A1 has been convicted under Section 324 IPC. The maximum sentence imposed on the appellants is imprisonment for life. Challenging the conviction and sentence imposed on them, the appellants have come up with this appeal. Pending appeal, they seek suspension of sentence.

2. Heard Mr.A.R.L.Sundaresan, the learned Senior counsel appearing for the appellants and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. The deceased in this case was originally the accused in a murder case. It is brought to our notice that he was accused in at least 30 Criminal

cases. According to the FIR, one month prior to the occurrence, he was again arrested in connection with a case and lodged at Central Prison, Puzhal. P.W.1, the wife of the deceased, has taken him on bail. It is also stated that the father of the deceased had some dispute in respect of a land, with the first accused. This is stated to be the motive. It is further alleged that the occurrence in this case was at 12.00 mid night. P.Ws.2 and 3, the parents of the deceased, have been residing in a different street, though in the same locality. But the wife of the deceased, who also has sustained injury in the same occurrence, has stated that five people, who were not known, barged into the house, killed the deceased and also caused injuries to her. She was treated in a hospital. She has further stated that she is not aware of the person who drafted the F.I.R. In the F.I.R. There are only six names of the assailants mentioned. There is no explanation as to why the name of the other one was omitted. P.W.2 has identified only the accused 1 and 2 and he has not identified the rest. According to him accused 1 and 2 entered first into the house, attacked the deceased and at the end, the other accused also entered into the house and attacked the deceased. Whereas, according to P.W.3, hardly seven accused together barged into the house and simultaneously attacked the deceased. The learned Senior counsel would submit that the presence of P.Ws.2 and 3, at the place of occurrence, is highly doubtful. The name of the accused is not known to P.W.3, the learned Senior counsel submitted.

4. The learned Additional Public Prosecutor would however oppose this petition.

5. We have considered the above submissions.

6. We find force in the submission made by the learned Senior counsel, as enumerated herein above. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that 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 like sum to the satisfaction of the learned III Additional District and Sessions Judge, Cuddalore at Vriddhachalam Town and on further condition that the petitioners shall report before the Committal Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

(S.N.J.) (N.A.N.J.)
10 January 2017

msk

Note to Office:

Issue copy of the order on 11.1.2017.

S.NAGAMUTHU.J.,
AND
N.AUTHINATHAN.J.,

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10.01.2017