

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Third day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice SATRUGHANA PUJAHARI

CRIMINAL MISCELLANEOUS PETITION No.12748 of 2017

IN CRL A.637/2017

VEERADURAI,

[APPELLANT/ACCUSED]

Vs

STATE REP. BY
STATION HOUSE OFFICER,
RISHIVANDIYAM POLICE STATION,
VILLUPURAM DISTRICT.
(CRIME NO.121/2012).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.637 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence made in S.C.No.63/2013 on the file of III Additional District and Sessions Judge, Villupuram at Kallakurichi and enlarge him on bail pending disposal of CRL.A.No.637/2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.637 of 2017 on the file of the High Court and upon hearing the arguments of M/S.S.N.ARUNKUMAR, Advocate for the petitioner and of MR. R.RAVICHANDRAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

The petitioner / appellant, who is the sole accused, stood charged and tried for the commission of the offences u/s.453, 294[b], 302 and 506[iii] IPC and he was found guilty for the commission of the offences u/s.302 and 506[iii] IPC and was sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.3000/-, with a default sentence of six months simple imprisonment for the commission of the offence u/s.302 IPC and was sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/- with a default sentence of 15 days simple imprisonment. However, the Trial Court found him not guilty of the offences u/s.452 and 294[b] IPC. The sentences of imprisonment awarded, were ordered to run concurrently and the petitioner/appellant was granted set-off u/s.428 Cr.P.C.

2 The learned counsel for the petitioner / appellant would submit that the occurrence is said to have taken place on 04.04.2012 at about 12.00 Noon on account of previous enmity due to land dispute and the eyewitnesses, viz., P.Ws.1, 2, 3, 4 and 9 are closely related to the deceased and there are material contradictions in their testimonies and further that the FIR was also belatedly despatched, for which, no explanation has been offered by the Investigating Officer and that apart, the contents of the Fir would also disclose that it has been written in three different inks and as such, the case of the prosecution is bristled with infirmities and inconsistencies and the Trial Court, in any event, ought to have awarded benefit of doubt and acquitted the petitioner/appellant and since the petitioner/appellant is having a bright chance of success, prays for suspension of sentence.

3 *Per contra*, Mr.R.Ravichandran, learned Government Advocate [Crl.Side] appearing for the respondent / State would submit that the testimonies of the eyewitnesses corroborate with each other on all material particulars and the points urged by the learned counsel for the petitioner/appellant can be adjudicated only at the time of final disposal of the appeal and prays for dismissal of this miscellaneous petition.

4 This Court has considered the rival submissions and also perused the materials placed before it.

5 Admittedly, the eyewitnesses are closely related to the deceased and that is not the sole consideration to eschew their testimonies. A perusal of the impugned judgment would *prima facie* disclose that their testimonies corroborate with each other with regard to the overt act on the part of the appellant/petitioner to do away with the life of the deceased-husband of P.W.1. The other points urged by the learned counsel for the petitioner revolve around the merits of the appeal and the same can be adjudicated only at the time of the final disposal of the appeal.

6 In the light of the reasons assigned above, the miscellaneous petition is dismissed.

-sd/-
23/11/2017

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 III, ADDL. DISTRICT AND
SESSIONS JUDGE, VILLUPURAM @ KALLAKURICHI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATION HOUSE OFFICER,
RISHIVANDIYAM POLICE STATION,
VILLUPURAM DISTRICT.

COPY TO

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S.S.N.ARUNKUMAR Advocate on payment of necessary
charges

Order

in
CRL MP.12748/2017

in
CRL A.637/2017

Date :23/11/2017

From 7.2.2001 the Registry is issuing certified
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ths : 27.11.2017