

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Thirtieth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.14118 of 2017

IN CRL A.717/2017

ARUL

[PETITIONER]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
KANCHI TALUK POLICE STATION,
KANCHIPURAM DISTRICT,
CR.NO.516 OF 2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.717/2017 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence dated 29.06.2017 in S.C.No.18 of 2014 against Petitioner Appellant by the District and Sessions Judge, No.II, Kanchipuram, Kanchipuram District and the petitioner appellant who is remanded to the judicial custody after judgment be released on bail pending disposal of the above appea. No.717 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.717/2017 on the file of the High Court and upon hearing the arguments of MR.R.ANBALAGAN, Advocate for the petitioner and of MR.K.MADHAN, GOVERNMENT ADVOCATE (CRL.SIDE) on behalf of the Respondent the court made the following order:-

It is the case of the prosecution that this petitioner was demanding money from the deceased for drinking and since the deceased did not accede to his request, this petitioner had assaulted the deceased indiscriminately and caused his death.

2.Though a charge under Section 302 IPC was framed against the accused, the trial court has convicted him under Section 304 (ii) IPC and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1000/-.

3.Learned counsel for the petitioner submitted that all the witnesses are close relatives of the deceased and that though the incident had taken place in a public place, no independent witness

has been examined. He has also submitted that Ranjitham (PW1), the widow of the deceased, has stated in her cross examination that she had only put her thumb impression in the complaint (Ex.P1).

4.Per contra, the learned Additional Government Pleader refuted the allegations. Just because the prosecution witnesses are related, there is no reason to disbelieve the testimony, if it otherwise inspires the confidence of the Court. Ranjitham (PW1) has stated that she is an illiterate lady. Just because she is an illiterate lady, it cannot be stated that she should be disbelieved. In such view of the matter, this petition is devoid of merits and the same is dismissed with liberty to the petitioner to renew the application after six months if the appeal is not listed in the meantime.

Registry is directed to call for the records, prepare the typed-set of papers and post the appeal for arguments.

-sd/-
30/11/2017

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 DISTRICT AND SESSIONS
JUDGE NO.II, KANCHIPURAM,
KANCHIPURAM DISTRICT.

2 THE JUDICIAL MAGISTRATE
NO.II, KANCHIPURAM.

3 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
KANCHI TALUK POLICE STATION,
KANCHIPURAM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

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

C.C. to M/S.R.ANBALAGAN Advocate on payment of necessary
charges

Order

in
CRL MP.14118/2017

in
CRL A.717/2017

Date :30/11/2017

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MLT 06/12/2017