

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Third day of February Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice S. NAGAMUTHU

and

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.3 of 2017

IN CRL A.1/2017

1 MUNIYAMMAL
2 CHAKKRAVARTHY
3 DURGADEVI

[PETITIONERS]

Vs

STATE REP.BY ITS
INSPECTOR OF POLICE,
K.V.KUPPAM POLICE STATION,
VELLORE DISTRICT
CR.NO.128 OF 2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.1 of 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the appellants herein by the Additional District and Sessions Judge (Fast Track Court) Vellore in S.C.No.204 of 2015 dated 21.12.2016 and release the petitioners herein on bail pending disposal of the above Crl.A.No.1 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.1 of 2017 on the file of the High Court and upon hearing the arguments of M/S.R.KARTHIKEYAN, Advocate for the petitioner and of M/S P.GOVINDARAJAN, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

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

The appellants are the accused 1 to 3 in S.C.No.204 of 2015, on the file of the Additional District and Sessions Judge (Fast Track Court), Vellore. Accused 1 and 2 have been convicted for offence under Section 302 read with Section 120-B and under Section 302 IPC and the third accused has been convicted for offence under Section 302 read with Sections 109 and 120-B IPC. The maximum punishment imposed upon them is imprisonment for life. Pending appeal, they seek for suspension of sentence.

2. We have heard the learned counsel for the appellants and the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. It is a case based on circumstantial evidence. The prosecution has alleged that there was illicit intimacy between the first accused and the deceased and later on, the deceased once advanced sexual overtures with the third accused. But to prove this, there is no evidence. It is true that the dead body of the deceased was found floating in a lake on 6.4.2015. P.W.6 has stated that he saw the first accused along with the deceased somewhere near the place of occurrence, one day before the occurrence. But he was examined only on 8.4.2015. P.W.6 is not a third party. He is after all the brother of the deceased. Had it been true that he saw the accused along with the deceased just before the occurrence, he could not have kept mum for two days. During cross-examination he stated that because he fainted, he did not disclose the same to anybody. It is highly unbelievable that he fainted for two days. Apart from that, the prosecution relied on the recovery of certain material objects. The link between the recovered objects and the crime has not been established. As against the third accused, absolutely there is no evidence. From these facts, we are of the view that the petitioners/accused have made out a case for suspension of sentence.

4. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners/accused are directed to be enlarged on bail on condition that each of them 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 Judicial Magistrate, Katpadi, Vellore District, and on further condition that the petitioners/accused shall report before the Committal Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

03/02/2017

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,
KATPADI, VELLORE DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
K.V.KUPPAM POLICE STATION,
VELLORE DISTRICT

5 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE (FAST TRACK COURT,
VELLORE.

6 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
VELLORE.

7 THE SUPERINTENDENT,
CENTRAL PRISON FOR MEN,
VELLORE.

C.C. to M/S.R.KARTHIKEYAN Advocate on payment of necessary
charges Sr.2370

Order

in
CRL MP.3/2017

in
CRL A.1/2017

Date :03/02/2017

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

RVR 07/02/2017