

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty First day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.7865 of 2017

IN CRL A.368/2016

1 GOVINDARAJ
2 PARASURAMAN
3 MANI

[PETITIONERS]

Vs

THE STATE REP BY ITS
THE INSPECTOR OF POLICE,
DESUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.
CR.NO.53 OF 2002.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.368/2016 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners by the Hon'ble Sessions Judge, Tiruvannamalai, Tiruvannamalai District, Sessions Case No.178 of 2008 dated 29.04.2016, enlarge the petitioners on bail pending disposal of the CRL A.368/2016 [IN CRL.MP.NO.7865 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.368/2016 on the file of the High Court and upon hearing the arguments of M/S.C.R.MALARVANNAN, Advocate for the petitioner and of MR. K.MATHAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2. The petitioners seek suspension of sentence pending disposal of the appeal.

3. There are totally four accused in this case. The petitioners/A1, A2 and A4 respectively in S.C.No.178 of 2008 on the file of the Sessions Judge, Thiruvannamalai. They were convicted and sentenced to undergo rigorous imprisonment for 10 years each for the offence under Section 304(II) IPC.

4. The case of the prosecution is that on 27.04.2002 at 7.00 a.m., when the accused trespassed into Selvaraj/PW1's land to consume liquor, a petty quarrel arose between PW1 Selvaraj and the accused. In the melee, A1 and A2 assaulted PW1 with the stick on his head. All the accused assaulted Marimuthu, who intervened to pacify them, indiscriminately by using stick and as a result, Marimuthu died on 27.04.2002 at 5.15 p.m. at Government Hospital, Vandavasi. The trial Court after full fledged trial, came to the conclusion that the accused have committed the alleged offences and sentenced them as aforesaid.

5. The learned Government Advocate (Criminal Side) would submit that the accused herein trespassed into the land of PW1 to consume liquor, PW1 questioned them and a quarrel arose between PW1 and the accused. The deceased Marimuthu intervened and tried to pacify them. He was attacked by the accused and as a result, he died on the same day at 5.15 pm. He opposed the application stating that it is not a fit case for suspension of sentence, as it is supported by eye witnesses and other reliable materials.

6. The learned counsel appearing for the petitioners would submit that in the alleged melee, A1 and A2 sustained injury and they have also lodged a complaint against PW1 and that was not investigated into by the Investigating Officer. He would further submit that instead of prosecuting PW1, they have been falsely implicated in this case. According to him, there are several arguable points in the present appeal and therefore, he prayed for suspension of the sentence.

7. I have perused the judgment of the trial court and the grounds of appeal. The petitioners have raised arguable points in the appeal. It is also brought to the notice of this Court that the accused were on bail during trial and that there is no allegation that they have misused their liberty. There is no fear that they will flee from justice and the appeal is not likely to be disposed of within a short time.

8. Taking all these factors into consideration, I am inclined to suspend the substantive sentence of imprisonment alone in respect of the petitioners herein, subject to the following conditions.

9. The sentence of imprisonment imposed on the petitioners by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioners are ordered to be enlarged on bail on their executing a bond for Rs.5,000/- [Rupees five thousand only] each with two sureties each for a like sum to the satisfaction of the District Munsif cum Judicial Magistrate, Vandavasi within a period of two weeks from the date of this order and on further condition that the petitioner shall stay at Villupuram and report before the Inspector of Police, Villupuram Town Police Station daily at 9.00 a.m. until further orders.

10. On failure of the petitioners, to comply with any of the above said conditions, the bail granted to them shall stand automatically cancelled and the concerned Judge shall take necessary steps to secure the petitioners/accused.

-sd/-
21/07/2017

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 SESSIONS JUDGE,
TIRUVANNAMALAI, TIRUVANNAMALAI DISTRICT.

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, VANDAVASI.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
DESUR POLICE STATION,
THIRUVANNAMALAI, DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE INSPECTOR OF POLICE,
VILLUPURAM TOWN POLICE STATION,
VILLUPURAM.

+1C.C. to M/S.C.R.MALARVANNAN Advocate on payment of necessary charges SR NO.13703

Order

in
CRL MP.7865/2017

in
CRL A.368/2016

Date :21/07/2017

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MK:25/07/2017