

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eighteenth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice P. RAJAMANICKAM

CRIMINAL MISCELLANEOUS PETITION No.9328 of 2017

IN CRL A.446/2017

SIVAKUMAR

[PETITIONER / APPELLANT / ACCUSED]

Vs

STATE BY,

INSPECTOR OF POLICE ,

ERODE SOUTH POLICE STATION,

ERODE DISTRICT.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.446/2017 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence dated 14.03.2017 passed in S.C.No.158 of 2016 against the Appellant by the Sessions Magalir Neethi Mandaram, Fast Track Mahila Court, Erode, convicted the Appellant to undergo Imprisonment for life for the offence under section 307(part II) of IPC and fine of Rs.10,000/- (Rupees Ten Thousand Only), failing to pay the fine amount, Appellant should undergo further period of 2 years simple imprisonment and the Appellannt should undergo the said conviction and sentences concurrently and the Appellant is remanded to judicial custody after judgment, be released on bail pending disposal of the above CRL A.446/2017 [IN CRL.MP.NO.9328 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.446/2017 on the file of the High Court and upon hearing the arguments of M/S.ANBZHAGAN Advocate for M/S.ARULSELVAM ASSOCIATES, Advocate for the petitioner and of MR.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 is the sole accused in SC.No.158/2016 on the file of the Court of Sessions Judge, Mahalir Neethimandram, [Fast Track Mahila Court], Erode. He stood charged and tried for the commission of the offence u/s.307 [Part II] IPC and the Trial Court, vide impugned Judgment dated 14.03.2017, has

found the petitioner/appellant guilty of the said charge and convicted and sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.10,000/- with a default sentence to undergo 2 years simple imprisonment. Challenging the said conviction and sentence, the petitioner / appellant has preferred the present appeal and pending appeal, the present petition has been filed seeking suspension of his sentence.

2 The learned counsel appearing for the petitioner would submit that as per the wound certificate marked as Exs.P7 and P8 coupled with the testimonies of PW5 and PW6, the injuries are simple in nature and there are very many inconsistencies and improbabilities in the testimonies of PW1, injured witnesses PW2, PW3 and PW4 and would further aver that the petitioner/appellant is having a bright chance of success in the appeal and prays for suspension of sentence of imprisonment.

3. Per contra, Mr.Ravichandran, learned Government Advocate (Criminal Side) appearing for the State would submit that assuming that the injuries are simple in nature, the petitioner / appellant had committed the offence in a fit of rage and at best he is entitled to only for modification of the conviction of sentence and since, the injured witnesses has spoken about the overt act on the part of the appellant / petitioner and it is also corroborated by PW2 to PW4, there is no chance for the petitioner / appellant to get acquitted and prays for dismissal of this petition.

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

5. A perusal of the typed set of documents filed along with this petition would prima facie disclose that the overt act on the part of the appellant / accused is spoken to by his wife / the injured witness /PW1 and which is also supported by the testimony of PW2 and yet another two independent eye-witnesses, PW3 and PW4.

6. In the considered opinion of the Court at the best, the petitioner / appellant may entitled for modification of conviction and sentence and as such, this is not a fit case wherein, the suspension of sentence is to be granted, pending disposal of the appeal.

7. Accordingly, this petition is dismissed. The Registry is directed to prepare the typed set of documents and accord priority and list the appeal for final disposal.

-sd/-
18/12/2017

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 MAGALIR NEETHI MANDRAM,
FAST TRACK MAHILA COURT,
ERODE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ERODE SOUTH POLICE STATION,
ERODE DISTRICT.

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

C.C. to M/S.ARULSELVAM ASSOCIATES Advocate on payment of
necessary charges

Order

in
CRL MP.9328/2017

in
CRL A.446/2017

Date :18/12/2017

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

MK:28/12/2017