

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Twelfth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice S. RAMATHILAGAM

CRIMINAL MISCELLANEOUS PETITION No.11904 of 2018

IN

CRL.A.NO.541 OF 2018

1 SAKTHIVEL  
2 BAKKIYARAJ

[ PETITIONERS / APPELLANTS / ACCUSED ]

Vs

STATE BY,  
INSPECTOR OF POLICE,  
CBCID,  
CUDDALORE DISTRICT,  
CUDDALORE.

[ RESPONDENT ]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.541 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the order of conviction and sentences made in S.C.No. 163 of 2012 on the file of the Learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District, by its Judgement dated 18.07.2018 pending disposal of the above CRL.A.NO.541 OF 2018 [IN CRL.MP.NO.11904 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.541 OF 2018 on the file of the High Court and upon hearing the arguments of MR.S.ANANTHANARAYANAN SENIOR COUNSEL FOR M/S.R.SILAMBARASAN, Advocate for the petitioner and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **C.T.SELVAM, J**)

Petitioners/A2&A3 were convicted for offences u/s. 302 r/w 34 IPC and sentenced to undergo Life imprisonment and fine of Rs.5,000/- i/d 2 years S.I for offence u/s 302 r/w 34 IPC by the learned II Additional District and Sessions Judge, Chidambaram, under judgment dated 18.07.2018 in S.C.No.163 of 2012. Hence, petitioners seek suspension of sentence.

2. Learned counsel for petitioner would submit that the petitioners is confined at Central Prison, cuddalore and there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. Learned counsel submits that fine amount has been paid by the petitioners.

3. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioners.

4. It is submitted by the learned counsel for the petitioners/accused 2 & 3 that in all six accused were put to trial. The first accused had died pending trial, A2 and A3 have been convicted and accused A4 to A6 have been acquitted. The prosecution case rested on the evidence of the PWs 16,18 and 19, immediate relatives of the deceased. They say no more than that they heard the voice of A1, calling for the these petitioners/ accused 2 & 3 immediately prior to the occurrence, wherein, the deceased was beaten to death. Originally four persons faced trial and were acquitted. On revision preferred by the defacto complainant, this Court directed transfer of investigation to CBCID. Thereafter, PWs 16,18 and 19 have spoken to having identified the voice calling for these accused as that of A1, eight years after the occurrence. Although, it is the prosecution case that PWs 16,18 and 19 on the date immediately after the occurrence joined in searching for the deceased, they have not made any mention whatsoever of the voice heard by them.

5. Considering the facts and circumstances of the case and in view of the fact that the petitioners have been in custody, that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioners, and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioners herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned II Additional District and Sessions Judge, Chidambaram, and on further condition that the petitioners shall appear before the said Court on the first working day of every month at 10.30.a.m. pending appeal.

-sd/-  
12/11/2018

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 II ADDITIONAL DISTRICT AND  
SESSIONS JUDGE, CHIDAMBARAM, CUDDALORE.

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,  
CENTRAL PRISON, CUDDALORE.

4 THE INSPECTOR OF POLICE,  
CBCID, CUDDALORE DISTRICT,  
CUDDALORE.

+1C.C. to M/S.R.SILAMBARASAN Advocate on payment of necessary charges SR NO.20991

WEB COPY

Order  
in  
CRL MP.11904 OF 2018  
in  
CRL.A.541 OF 2018

Date :12/11/2018

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