IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Monday, the Nineteenth day of March Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice R. SURESH KUMAR

CRIMINAL MISCELLANEOUS PETITION No.16711 of 2017

IN CRL A.815/2017

SETTU [ PETITIONER ]

Vs

STATE REPRESENTED BY [ RESPONDENT ]
THE INSPECTOR OF POLICE,
KAVERIPATTINAM POLICE STATION,
KRISHNAGIRI DISTRICT.
CR.NO.28 OF 2017.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.815/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in S.C.No.103 of 2017 on the file of the Principal Sessions Judge, Krishnagiri by Judgement and Order dated 18.12.2017 and to release the petitioner on bail, pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.815/2017 on the file of the High Court and upon hearing the arguments of M/S.C.PRABAKARAN, Advocate for the petitioner and of MR.T.SHANMUGA RAJESHWARAN Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence imposed against the petitioner in S.C.No.103 of 2017 by judgement of the learned Principal Sessions Judge, Krishnagiri, dated 18.12.2017.

2.Heard Mr.C.Prabakaran, learned counsel for the Petitioner/Appellant and Mr.T.Shanmuga Rajeshwaran, learned Government Advocate (Crl.side) appearing for the respondent.

3.The learned counsel appearing for the petitioner/appellant submitted that according to P.W.7-Doctor's witness, the Doctor found two injuries, one is at the back side of the head measuring 4 X 4 cm and another one is at the front of the neck of the deceased measuring 6 x ½ cm and the said injury at the neck according to P.W.7, could have been possibl if attempt made by the deceased for hanging.

4.The learned counsel for the petitioner would also rely upon the cross examination of the P.W.7-Doctor, who says that the said injury

at the neck could be possible when a person attempted to commit suicide by way of hanging. P.W.7-Doctor had also stated that the injury at the chest of the deceased could have also been possible when a person at the time of attempting suicide by way of hanging might fell down on some objects.

5.The learned counsel would also rely upon the answer given by P.W.7 to the question posed by the Court stating that the injury found at the body of the deceased could not be possible if the person fall down from a place of lesser height.

6.The learned counsel appearing for the petitioner/appellant also submits that there is a delay in filing FIR inspite of the suspicious information known to the police on the date of occurrence on the night itself, when the police went for investigation and sent the body for post mortem.

7.Per contra, the learned Government Advocate (Crl.side) submited that even according to P.W.7-Doctor, there had been injury on the body of the deceased on the backside of the head for 4 x 4 cm and also it was the deposition of P.W.7 that there was no fracture to neck bone of the decease. The learned Government Advocate would further submit that P.W.3 is the son of the deceased, who is only 15 years old, who had also deposed in support of the prosecution case and his evidence need not be disbelieved.

8.I have considered the said submissions made on both sides.

9.As has been pointed out by the learned counsel for the petitioner/Appellant, on the defence side certain discrepancies had been pointed out by relying upon the evidence of P.W.7-Doctor. All these grounds has been raised substantially in the main appeal.

10.Though, it was submitted by the learned Government Advocate (Criminal Side) there are acceptable evidence on the side of the prosecution based on which only the guilt on the side of the accused has been proved beyond reasonable doubt by the prosecution, these aspects only to be gone into at the time of final hearing.

11.Since, substantial grounds have been raised by the appellant side and it will take some reasonable time to take up the main case for final hearing, at this stage I am inclined to pass the following order:-

> (a) The substantive sentence imposed by the learned Principal Sessions Judge, Krishnagiri in S.C.No.103 of 2017 dated 18.12.2017 alone is suspended on the petitioner/appellant executing a bail bond for a sum of Rs.25,000/- with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate Court, No.I, Krishnagiri, within a period of two weeks from the date of receipt of copy of this order.

(b) The petitioner/appellant shall report before the concerned Judicial Magistrate at 10.30 a.m., on the first working day of every English Calander month until further orders.

12.With the above observations, this petition is ordered.

-sd/-
19/03/2018

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 JUDICIAL MAGISTRATE,
COURT,NO.I, KRISHNAGIRI

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH CORUT,MADRAS

4 STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
KAVERIPATTINAM POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

+1 C.C. to M/S.C.PRABAKARAN Advocate on payment of necessary charges SR.NO. 5385

Order

in
CRL MP.16711/2017

in
CRL A.815/2017

Date :19/03/2018

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RD 21/03/2018