

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Wednesday, the Eleventh day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P.KALAIYARASAN

CRIMINAL MISCELLANEOUS PETITION No.5026 of 2018

IN CRL.A.NO.210 OF 2018

DASARATHAN

[PETITIONER]

Vs

THE INSPECTOR OF POLICE  
PERNAMPET POLICE STATION  
CRIME NO.237/2016

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.210 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in sessions Case NO.113 of 2016, on the file of the Principal Sessions Judge, Vellore, Vellore District dated 14.03.2018 and enlarge the appellant on bail, pending disposal of the above criminal appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.210 of 2018 on the file of the High Court and upon hearing the arguments of M/S.A.E.RAVICHANDRAN Advocate for the petitioner and of MR.S.PRBHARATHI GANESH RAM ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

1. Heard both sides.

2. This petition has been filed by the petitioner/A1 seeking to suspend the order of sentence passed by the learned Sessions Judge, Vellore, dated 14.03.2018, in S.C.No.113 of 2016.

3. The petitioner/appellant has been convicted and sentenced to undergo RI for 5 years for the offence under Section 304[ii] of IPC

4. Learned counsel for the petitioner/appellant contends that the petitioner had been on bail through out the trial, due to dispute with respect to ridge in the land, both the parties threw stones and bricks and the brick thrown by the accused is alleged to have struck on the forehead and chest of the deceased, that the evidence has not been properly appreciated by the trial Court and that the petitioner is having fair chance of getting acquittal and therefore, the sentence may be suspended.

5.Learned Additional Public Prosecutor opposed to grant suspension contending that the trial Court has carefully analysed the evidence, convicted and sentenced the accused for the offence under section 304[iii] of IPC.

6.It is mainly contended by the learned counsel for the petitioner that though the accused was also injured in the occurrence, charge sheet was laid against him, without investigating the accused properly.

7.Considering the above submissions of the learned counsel for the petitioner, the fact that the petitioner had been on bail through out the trial, that he is having permanent residence and also the entire facts and circumstances of the case, this Court is inclined to suspend the sentence imposed by the trial Court. Accordingly, the substantive sentence of imprisonment alone is suspended on executing 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, Gudiyatham and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m till the disposal of the appeal.

-sd/-  
11/04/2018

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 PRINCIPAL SESSIONS JUDGE  
VELLORE, VELLORE DISTRICT

2 THE JUDICIAL MAGISTRATE,  
GUDIYATHAM,

3 THE CHIEF JUDICIAL MAGISTRATE  
VELLORE[FOR INFORMATION]

4 THE SUPERINTENDENT  
CENTRAL PRISON, VELLORE

5 THE PUBLIC PROSECUTOR,  
HIGH COURT,MADRAS

6 THE INSPECTOR OF POLICE,  
PERNAMPET POLICE STATION,

+2 C.C. To M/S. A.E.RAVICHANDRAN Advocate on payment of  
necessary charges SR.NOS. 7011,7042

Order

in  
CRL MP.5026/2018

IN

CRL.A.NO.210 OF 2018

Date :11/04/2018

From 7.2.2001 the Registry is issuing certified  
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RD 12/04/2018