

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of October Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.13520 of 2018

in CRL.A.NO.612/2018

RAMACHANDAR @ RAMACHANDRAN [APPELLANT/1ST ACCUSED]

Vs

STATE REP BY,
THE INSPECTOR OF POLICE,
SANKARI POLICE STATION,
SALEM DISTRICT-637 301. [RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.612 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in SC.No.101 of 2015 on the file of the Learned II Addl. District and Sessions Judge, Salem dated 23.8.2018 and enlarge the petitioner on bail till the disposal of Crl.A.No. of 2018 on the file of this Hon'ble Court.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.612 of 2018 on the file of the High Court and upon hearing the arguments of MR.N.P.ELANGO, SENIOR COUNSEL FOR M/S.ARUNA ELANGO, Advocate for the petitioner and of MR. PRATHAP KUMAR, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

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

Petitioner/A1 was convicted for offence u/s. 120B r/w 302, 364 r/w 120B, 302 r/w 120B and 201 r/w 302 IPC and sentenced to undergo (i) Life imprisonment and fine of Rs.1,000/- i/d one year R.I for offence u/s 120B r/w 302 IPC, (ii) Life imprisonment and fine of Rs.1,000/- i/d one year R.I for offence u/s 364 r/w 120B IPC, (iii) Life imprisonment and fine of Rs.1,000/- i/d one year R.I for offence u/s 302 r/w 120B IPC (iv) 7 years Rigorous imprisonment and fine of Rs.1,000/- i/d 6 months S.I for offence u/s 201 r/w 302 IPC by learned II Additional District and Sessions Judge, Salem, under judgment dated 23.08.2018 in S.C.No.101 of 2015. Hence, petitioner seeks suspension of sentence.

2. Learned counsel for petitioner would submit that the petitioner is confined at Central Prison, Coimbatore 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 not been paid by the petitioner.

3. The prosecution case is one of abduction and murder, the deceased having been gruesomely cut into three pieces. It is the prosecution case that the deceased was done to death by A2 to A5 and that such accused acted at the instance of this petitioner/A1. As against the prosecution case of the accused, including the petitioner herein having pointed out the place where the body of the deceased was thrown, i.e., a flowing river, PW-17-Photographer has informed that two pieces of the body were afloat. The evidence of the petitioner's involvement is sought to be brought out through PW-17 speaking to his having seen this petitioner in the company of the other accused atop a bridge. What was uttered by the accused was not to his knowledge. Submitting that the above circumstances hardly could lead to a finding of conviction against petitioner, learned Senior Counsel seeks suspension of sentence.

3. Heard learned Additional Public Prosecutor on the submissions made by learned Senior counsel appearing for petitioner.

4. Learned Additional Public Prosecutor submits that the motive of the petitioner/A1 was established in that both the petitioner/A1 as also the deceased were partners in Real Estate Transactions and dispute arose owing to purchase of a property and the Sale Deed reflecting the purchasers as the mother and sister of the petitioner. He would further contend that the body had been recovered at the instance of the accused. Prosecution case found further support in the confession of A2 recorded by Village Administrative Officer-PW-4.

4. Considering the facts and circumstances of the case and in view of the fact that the petitioner has 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 petitioner, 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 petitioner herein is entitled to the relief of grant of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner 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, Salem, 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. pending appeal.

-sd/-
24/10/2018

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, SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SANKARI POLICE STATION,
SALEM DISTRICT-637 301.

C.C. to M/S.ARUNA ELANGO Advocate on payment of necessary charges

सत्यमेव जयते
Order

in

CRL MP.13520/2018

in CRL.A.NO.612/2018

Date :24/10/2018

From 7.2.2001 the Registry is issuing certified
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THS : 25.10.2018