

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Sixth 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.13721 of 2018

IN CRL.A.No.623 OF 2018

1 EZHUMALAI
2 MURUGAN
3 PICHANDI
4 PACHAIMUTHU
5 MANCHUNATHAN
6 SAMPATH

[PETITIONERS]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
KADALADI POLICE STATION,
THIRUVANNAMALAI DISTRICT.
CR.NO.109 OF 2008.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.623 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in SC No.12 of 2009 on the file of the Learned Principal District Sessions Judge, Thiruvannamalai dt 28.9.2018 and enlarge the petitioners on bail till the disposal of CRL.A.No.623 OF 2018 on the file of this Honble Court.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.623 OF 2018 on the file of the High Court and upon hearing the arguments of MR.N.R.ELANGO SENIOR COUNSEL FOR M/S.ARUNA ELANGO, Advocate for the petitioner and of MR.R.PRATHAPKUMAR, 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, arrayed as A1 to A4 & A8 and A9 out of 13 accused, faced trial in S.C.No.12/2009 on the file of learned Principal District and Sessions Judge, Tiruvannamalai. Trial Court, under judgment dated 28.09.2018, convicted the petitioners as follows:-

Rank of the accused	Conviction under section	Sentence awarded
A1 to A4 & A8, A9	147, 148 IPC	Each of the accused to undergo 1 year rigorous imprisonment and to pay fine of Rs.1000/- each, with a default sentence of 3 months rigorous imprisonment for the offence u/s 147 IPC . Each of the accused to undergo 1 year rigorous imprisonment and to pay fine of Rs.1000/- each, with a default sentence of 3 months rigorous imprisonment for the offence u/s 148 IPC .
A3, A4	302 r/w149 IPC	Each of the accused to undergo imprisonment for life and to pay fine of Rs.1000/- each, with a default sentence of 2 years rigorous imprisonment.
A1, A2, A8, A9	302 IPC	Each of the accused to undergo imprisonment for life and to pay fine of Rs.1000/- each, with a default sentence of 2 years rigorous imprisonment.

The sentences were ordered to run concurrently. Challenging the conviction and sentence, the petitioners have preferred the above appeal and this miscellaneous petition has been filed seeking suspension of sentence, pending appeal.

2 Learned Senior counsel for petitioners would submit that there are several infirmities and inconsistencies in the prosecution case and that a perusal of the evidence of P.Ws.1 to 5 and 10 would inform the witnesses lack of knowledge on whom and how the attack on the two deceased came about. Learned Senior counsel further informs that petitioners are confined at Central Prison, Vellore, from the date of conviction.

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

4 Taking into consideration the submissions of learned counsel for petitioners and that the criminal appeal is not likely to be taken up for final hearing in the near future and further considering the fact that the petitioners are undergoing incarceration from 28.09.2018, this Court is of the view that petitioners herein may be granted the relief of suspension of sentence.

5 Accordingly, the substantive sentences of imprisonment alone is suspended and petitioners are directed to be enlarged on bail on condition that each of 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 learned Principal District and Sessions Judge, Tiruvannamalai and on further condition that petitioners shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m. pending appeal.

-sd/-
26/10/2018

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 PRINCIPAL DISTRICT AND
SESSIONS JUDGE, TIRUVANNAMALAI.

2 THE INSPECTOR OF POLICE,
KADALADI POLICE STATION,
THIRUVANNAMALAI DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPRINTENDENT,
CENTRAL PRISON, VELLORE.

+1C.C. to M/S.ARUNA ELANGO Advocate on payment of necessary charges in SR.NO. 20030

Order

in
CRL MP.13721/2018
in
CRL.A.NO.623 OF 2018

Date :26/10/2018

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