

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Eleventh day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice S. RAMATHILAGAM

CRIMINAL MISCELLANEOUS PETITION NOS.15191 & 15196 of 2018

IN

CRL.RC.NOS.717 & 719 OF 2018

RAVICHANDRAN

[PETITIONER / APPELLANT
IN CRL.MP.NO.15191 OF 2018
IN CRL.A.NO.717 OF 2018]

1 SWEETLINE

2 GNANAMURTHY

3 KARTHI @ KARTHIKEYAN

4 NARESH KUMAR

[PETITIONER / APPELLANTS
IN CRL.MP.NO.15196 OF 2018
IN CRL.A.NO.719 OF 2018]

Vs

THE STATE REP. BY

REP. BY INSPECTOR OF POLICE,

RAMANATHAM POLICE STATION,

THITTAKUDI TALUK,

CUDDALORE DISTRICT.

[RESPONDENT
IN BOTH THE PETITIONS]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.RC.NOS.717 & 719 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed as against the petitioner in the judgment dated 31.07.2018 in S.C.No.6 of 2017 on the file of IIIrd Additional District and Sessions Judge, Cuddalore at Vriddhachalam, pending disposal of the above CRL.RC.NOS.717 & 719 OF 2018

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.RC.NOS.717 & 719 OF 2018 on the file of the High Court and upon hearing the arguments of MR.AR.L.SUNDARESAN SENIOR COUNSEL FOR M/S.AL.GANTHIMATHI, Advocate for the petitioner [IN CRL.MP.NO.15191 OF 2018 IN CRL.A.NO.717 OF 2018] and of M/S.A.RAMKUMAR Advocate for the petitioner [IN CRL.MP.NO.15196 OF 2018 IN CRL.A.NO.719 OF 2018] and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent [IN BOTH THE PETITIONS] the court made the following

[Order of the Court was made by **C.T.SELVAM, J**]

Petitioner in CrI.M.P.No.15191/2018, who is arrayed as A.2 and petitioners in CrI.M.P.No.15196/2018, who are arrayed as A.3 to A.6, faced trial in S.C.No.6 of 2017 on the file of learned III Additional District and Sessions Judge, Cuddalore at Vriddhachalam. Trial Court, under judgment dated 31.07.2018, convicted and sentenced the petitioners as follows:-

Sl. No.	Rank of the Accused	Conviction passed by Trial Court	Sentence awarded by Trial Court
1.	A2	109 r/w. Section 302 IPC	Sentenced to undergo Life Imprisonment and to pay a fine of Rs.1,000/- in default to undergo three months Simple Imprisonment.
2.	A3 to A6	449 IPC	Sentenced to undergo Rigorous Imprisonment for three years and to pay a fine of Rs.1,000/- each in default to undergo three months Simple Imprisonment.
3.	A3 to A6	302 r/w. Section 34 IPC	Sentenced to undergo Life Imprisonment and to pay a fine of Rs.1,000/- each in default to undergo three months Simple Imprisonment.

Seeking suspension of sentence, petitioners/A.2 to A.6 have moved the present petitions.

2. Heard Mr.AR.L.Sundaresan, learned Senior Counsel appearing for petitioners. Learned Senior counsel submitted that admittedly the deceased had died due to homicidal violence on the night of 09.11.2014. It was the prosecution case that A1 and A2 had an illicit relationship and as the deceased was a source of inconvenience thereto, A1 and A2 conspired and sought the assistance of A3 to do away with the deceased A3 engaged the services of A4 to A10.

3. Learned Senior Counsel pointed out that while in the complaint, P.W.1 had not made any mention of any illicit relationship between A.1 and A.2 and merely informed the death, in her statement recorded under Section 161(3) Cr.P.C., specific mention of such aspect has been made. Such statement having reached the learned Magistrate after the arrest of the second accused. P.W.8 was the son of the deceased who allegedly had been with his

mother, the first accused, in the house at the time of occurrence. He and his brother/P.W.9 had been examined only two months after the occurrence. Admittedly, the second accused was not present at the scene of occurrence. As against the prosecution version of three knives having been used in the occurrence, six had been seized. P.W.4 has spoken to seeing the assailants leave the house of the deceased at 10.30 p.m. he having been present to put up a flex board P.W.5. Though P.W.4 hearing about the death having been at the scene when Police were there and normal human conduct would have prompted him to inform that he had seen, he had been examined only two days after the occurrence. Therefore, P.W.4 having seen the assailants around the time of occurrence is unlikely. Again the first accused is said to have handed over jewels belonging to the deceased to A.2 towards raising funds. Pledge of such jewels stood in the name of one Mr.Jeyachandran, who has not been examined.

4. Mr.K.Prabakar, learned Additional Public Prosecutor submitted that the identification parade conducted on 04.12.2014 P.W.1,2,4 had identified the accused. Illicit relationship between A1 and A2 had been spoken to by P.Ws.2 to 4. Jewels of the deceased which had been handed over by A1 to A2 had also been recovered.

5. In response learned Senior counsel submitted that the identification parade had been conducted after the remand of the accused had been extended on two occasions and therefore the identification was of no significance. Learned Senior counsel submitted that owing to several infirmities and inconsistencies in the prosecution case this Court would consider grant of bail.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioners in both the petitions/A2 and A3 to A6 respectively, 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 III Additional District and Sessions Judge, Cuddalore at Vriddhachalam 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 appeals.

-sd/-

11/12/2018

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 IIIRD ADDITIONAL DISTRICT &
SESSIONS JUDGE,
CUDDALORE AT VRIDDHACHALAM-TOWN.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
THITTAKUDI TALUK,
CUDDALORE DISTRICT.

+4C.C. to M/S.AL.GANTHIMATHI Advocate on payment of necessary
charges SR NOS.23852, 23853

Order

in

Crl.M.P.Nos.15191 and 15196 of 2018

in

Crl.A.Nos.717 and 719 of 2018

Date :11/12/2018

From 7.2.2001 the Registry is issuing certified
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MK:14/12/2018

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