

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mrs Justice C. T. SELVAM

and

The Hon`ble Mr Justice B.PUGALENDHI

CRIMINAL MISCELLANEOUS PETITION No.15914 of 2018

IN CRL A.769/2018

1 SAGAJANANTHAN
2 MADHAN MOHAN
3 RAJ KUMAR

[PETITIONERS]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
CHIDAMBARAM TALUK,
CHIDAMBARAM, CUDDALORE.
CR.NO.86 OF 2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.769/2018 on the file of the High Court, the High Court will be pleased to pass an order suspending the sentences of imprisonment inflicted upon in the petitioners/appellants herein in SC No.70 of 204 vide the judgement of conviction dated 20.09.2018 passed by the Learned II Additional District and Sessions, Cuddalore District at Chidambaram and to enlarge the petitioners/appellants on bail.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.769/2018 on the file of the High Court and upon hearing the arguments of MR.G.PRABHAKARAN, Advocate for the petitioner and of MR.K.PRABAKAR, 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/A.8, A.10 & A.12 respectively faced trial in S.C.No.70 of 2014 on the file of learned II Additional District and Sessions Judge, Chidambaram. Trial Court, under judgment dated 20.09.2018, convicted and sentenced the petitioners as follows:-

Sl. No.	Rank of the Accused	Conviction passed by Trial Court	Sentence awarded by Trial Court
1.	Petitioners 1 and 2/ A.8 and A.10	147 IPC	Sentenced to undergo Rigorous Imprisonment for six months.
2.	Petitioners 1 and 2/ A.8 and A.10	294(b) IPC	Imposed a fine of Rs.250/- each with default sentence of one month Simple Imprisonment.
3.	Petitioners 1 and 2/ A.8 and A.10	436 IPC	Sentenced to undergo Rigorous Imprisonment for seven years and imposed with a fine of Rs.2,000/- with default sentence of one year Simple Imprisonment.
4.	Petitioners 1 and 2/ A.8 and A.10	302 r/w. 149 IPC	Sentenced to undergo Life Imprisonment and imposed with a fine of Rs.2,000/- with default sentence of one year Simple Imprisonment.
5.	Petitioner No.3/A.12	148 IPC	Sentenced to undergo Rigorous Imprisonment for one year.
6.	Petitioner No.3/A.12	294 (b) IPC	Imposed a fine of Rs.250/- with default sentence of one month Simple Imprisonment.
7.	Petitioner No.3/A.12	302 IPC	Sentenced to undergo Life Imprisonment and imposed with a fine of Rs.2,000/- with default sentence of one year Simple Imprisonment.

Seeking suspension of sentence, petitioners have moved the present petition.

2. Learned counsel appearing for petitioners submits that the petitioners are confined at Central Prison, Cuddalore, and there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in material particulars in the evidence of the prosecution witnesses.

3. Learned counsel appearing for petitioners seeks permission of this Court to withdraw the petition in respect of petitioners 1 and 2/Accused Nos.8 and 10 and he has also made an endorsement to that

4. Heard learned Additional Public Prosecutor on the above submissions.

5. It is seen that A.11 to A.14 in the case were not named in the FIR. While specific overt acts have been attributed against A.1 to A.10, names of A.11 to A.14 have not figured either in the 161(3) Cr.P.C. statements or in the statements recorded by the learned Magistrate under Section 164 of Cr.P.C. The names have been included by way of alteration of the FIR on 07.03.2013 and it is admitted by P.W.1 that she earlier had not informed about the participation of A.11 to A.14 in the alleged occurrence.

6. Considering the facts and circumstances of the case, we are inclined to grant suspension of sentence to the third petitioner/A.12 alone for the reason that A.14, who stands on similar footing, has been granted relief by this Court under orders in CrI.M.P.No.14047 of 2018 in CrI.A.No.640 of 2018, dated 13.11.2018.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner No.3/A.12 alone is directed to be enlarged on bail on condition that he 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 Judicial Magistrate No.II, Chidambaram, and on further condition that the petitioner No.3/A.12 shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

8. Insofar as petitioner Nos.1 and 2/Accused Nos.8 and 10 are concerned, the petition, seeking suspension of sentence, is dismissed as withdrawn.

-sd/-

06/12/2018

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 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, CHIDAMBARAM,
CUDDALORE DISTRICT.

2 THE JUDICIAL MAGISTRATE,
NO.II, CHIDAMBARAM.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
CHIDAMBARAM TALUK,
CHIDAMBARAM, CUDDALORE.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

+1C.C. to M/S.G.PRABHAKARAN Advocate on payment of necessary
charges in SR.NO. 23512

Order

in
CRL MP.15914/2018

in
CRL A.769/2018

Date :06/12/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MLT-07/12/2018

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