

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Seventh day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice KRISHNAN RAMASAMY

CRIMINAL MISCELLANEOUS PETITION No.17988 of 2018

& CRL.A.NO.871 OF 2018

1 SURESH
2 JEYAPAL
3 VINAYAGAM
4 KANNAN
5 SARAVANAN
6 ANNAMALAI
7 JOTHI
8 ESWARAN
9 MANNU NAIDU

[PETITIONERS / APPELLANTS / ACCUSED]

10 SANKAR
S/O.PACHIYAPPAN

11 DURAI
12 GOVINDAN @ MATTHU NAIDU
13 MURUGAN
14 VASU
15 SUBRAMANI
16 KUPPATTHAN

17 SANKAR
S/O.BALARAMAN

18 BALAJI
19 BABU

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
THIRUVANNAMALAI DISTRICT
CR.NO.226 OF 2005.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.871 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment alone imposed by the Learned Additional District Sessions Judge, (Fast Track Court), Arni Thiruvannamalai District by Judgment dated 28.11.2018 in S.C.No.48 of 2009 on the Petitioners/Appellants/Accused NO.1 to 5, 7 to 14 & 16 to 21 and

enlarge the Petitioners/Appellants/Accused NO.1 to 5, 7 to 14 & 16 to 21 on bail pending disposal of the above CRL.A.NO.871 OF 2018 [IN CRL.MP.NO.17988 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.871 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.G.SARAVANAN, Advocate for the petitioner and of PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petition has been filed to suspend the sentence of imprisonment imposed in the judgment dated 28.11.2018 made in S.C.No.48 of 2009 on the file of the learned Additional District Sessions Judge, (Fast Track Court), Arni, pending disposal of the appeal.

2. The petitioners herein are the accused in S.C.No.48 of 2009 on the file of the learned Additional District Sessions Judge, (Fast Track Court), Arni. They have been found guilty, convicted and sentenced as under:

The petitioners/Accused No.1 to 5, 7 to 14, and 16 to 21 have been convicted and sentenced;

(i) Under Section 147 IPC and sentenced to undergo one year Simple Imprisonment and to pay a fine of Rs.1,000/- each in default to undergo one month Simple Imprisonment,

(ii) Under Section 448 IPC and sentenced to undergo six months Simple Imprisonment and to pay a fine of Rs.500/- each in default to undergo two weeks Simple Imprisonment,

(iii) Under Section 3 of the Tamil Nadu Public Property (Prevention of Damage and Loss) Act, 1992, to undergo one year Simple Imprisonment and to pay a fine of Rs.1,000/- each, in default to undergo three months Simple Imprisonment,

(iv) Under Section 148 IPC against the appellants 2 and 7 sentenced to undergo six months Simple Imprisonment and to pay a fine of Rs.1,000/- each, in default to undergo one month Simple Imprisonment,

(v) Under Section 324 IPC against the appellants 2 and 7 sentenced to undergo six months Simple Imprisonment and to pay a fine of Rs.1,000/- each, in default to undergo one month Simple Imprisonment,

(vi) Under Section 294(b) IPC against the appellants 6,7,8,9,13 and 14 to undergo three months Simple Imprisonment and to pay a fine of Rs.500/- each, in default to undergo two weeks Simple Imprisonment.

The sentences of Simple Imprisonment are ordered to be run concurrently.

3. Aggrieved against the same, the petitioners have preferred this appeal along with the petition for suspension of sentence.

4. The learned counsel appearing for the petitioners would submit that there are several infirmities and inconsistencies found in the prosecution case. Further the petitioners have paid the fine amount on 28.11.2018 and sentence of the petitioner is suspended till 02.01.2019. He would further submit that the trial Court erred in believing the evidences of the witnesses. Further he would submit that it will take some considerable time for the appeal to be listed for final hearing and pray for suspension of sentence.

5. The learned Government Advocate appearing for respondent opposed to grant suspension of sentence stating that the petitioners have not given cogent and convincing reason for suspension of sentence and that the trial Court has rightly convicted the petitioners.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels on either side and that there are arguable points involved in the appeal and that it would take sometime for final hearing of the appeal. I am inclined to suspend the substantive sentence of imprisonment alone.

7. Accordingly, the substantive sentence of imprisonment imposed on the petitioners by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.15,000/- [Rupees Fifteen Thousand only] each with two sureties each for a like sum to the satisfaction of the Additional District Sessions Judge (Fast Track Court), Arni, Thiruvannamalai District, and on further condition that the petitioners shall report before the trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
27/12/2018

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 ADDITIONAL DISTRICT
SESSIONS JUDGE, [FAST TRACK COURT] ARNI,
THIRUVANNAMALAI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

+1C.C. to M/S.G.SARAVANAN Advocate on payment of necessary
charges SR NO.25013

Order

in
CRL MP.17988/2018
in
CRL.A.NO.871/2018

Date :27/12/2018

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MK:31/12/2018