

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Seventeenth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.1021 of 2019

IN CRL.A.NO.51 of 2019

HAKEEM

[PETITIONER/APPELLANT]

Vs

STATE REPRESENTED BY [RESPONDENT/COMPLAINANT]
THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION,
CHENNAI.
CR.NO.383/2014.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed by the Learned III Additional Sessions Judge, Poonamallee, Tiruvallur District dated 07.06.2018 in S.C.No.10/2016 and enlarging the petitioner on bail pending disposal of the above Crl.A.No.51 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.I.ABDUL BASITH, Advocate for the petitioner, and of MR.R.PRATHAP KUMAR (ADDITIONAL PUBLIC PROSECUTOR), on behalf of the Respondents, the court made the following order:-

(Order of the Court was made by M.M.SUNDRESH,J)

The petitioner has been arrayed as A1 in S.C. No. 10 of 2016 for the offence punishable under Sections 302 r/w 34, 341, 323 on the file of the III Additional Sessions Judge, Poonamallee, Tiruvallur District. The trial Court, by judgment, dated 07.06.2018 convicted the petitioner for the offence under Section 302 r/w 34 IPC and sentenced to undergo life imprisonment and to pay a fine of RS.1,000/-, in default, to undergo six months rigorous imprisonment,

for the offence punishable under Section 341 IPC, sentenced to undergo simple imprisonment for one month and for the offence punishable under Section 323 IPC (3 counts), sentenced to undergo six months rigorous imprisonment for each count. Seeking suspension of sentence, the present petition has been filed.

2. The case of the prosecution is that the petitioner who has been arrayed as A1 along with A2 attacked the deceased and committed the offence in view of the enmity existing between them.

3. The learned counsel appearing for the petitioner submitted that in the appeal filed by A2, who is having similar overt act, in CrI. A. No. 624 of 2018, this Court in CrI.M.P. No. 13751 of 2018 dated 13.10.2018 was pleased to suspend the sentence. Though there are eye witnesses P.W.4, P.W.6 and P.W.8 apart from injured witnesses P.W.1, P.W.2 and P.W.10, there are discrepancies in the evidence let in by them. Therefore, the suspension of sentence petition will have to be allowed.

4. The learned Additional Public Prosecutor appearing for the State submitted that though it is a fact that the overt act attributed to the petitioner is similar to that of A2, considering the presence of eye witnesses, who have deposed, this petition will have to be dismissed.

5. We find force in the submission made by the learned counsel appearing for the petitioner on the same overt act attributed to A2, who got the sentence suspended as early as 13.10.2018. The petitioner has been in incarceration for more than a year and there are arguable points available in the appeal.

6. Considering the above, the substantive sentence of imprisonment alone is suspended on condition that the petitioner executes a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of Judicial Magistrate No.II, Poonamallee, Tiruvallur and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

17/07/2019

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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 III ADDITIONAL SESSIONS
JUDGE, POONAMALLEE, THIRUVALLUR DISTRICT.

2 THE JUDICIAL MAGISTRATE,
NO.II, POONAMALLEE.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
MADURAVOYAL POLICE STATION,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

+1 C.C. to M/S.I.ABDUL BASITH Advocate on payment of necessary
charges SR.NO.14594

Order

in
CRL MP.1021/2019

in
CRL.A.NO.51/2019

Date :17/07/2019

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