

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Seventh day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.94 of 2019

IN CRL.A.NO.4 OF 2019

1 S.SUDHAKAR [PETITIONERS / APPELLANTS / ACCUSED]
2 S.JOTHIBASU
3 S.VETRIMANI
4 V.KOLANJI @ KOLANJINATHAN

Vs

STATE REP. BY [RESPONDENT]
INSPECTOR OF POLICE,
CHOZHATHARAM POLICE STATION,
SRIMUSHNAM,
CUDDALORE DISTRICT.
CR.NO.72 OF 2013

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.4 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners/appellants by the judgment dated 18.12.2018 made in S.C.No.156 of 2014 passed by the learned Principal District and Sessions Judge, Cuddalore, CRL.A.NO.4 OF 2019 [IN CRL.MP.NO.94 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.4 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.P.PALANINATHAN, Advocate for the petitioner and of MRS.V.SARATHADEVI Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

There are totally five accused and the petitioners herein are arrayed as A2 to A5 in Sessions Case No.156 of 2014, on the file of the Principal District and Sessions Judge, Cuddalore. By order, dated 18.12.2018, the trial Court has convicted them for offences under various provisions of the Indian Penal Code. A2, A4 and A5 were convicted under Section 323 of IPC and sentenced to undergo simple imprisonment for six months with a fine of Rs.500/-, in default to undergo simple imprisonment for one month and A3 was convicted under Section 324 IPC and sentenced to undergo simple

imprisonment for one year with a fine of Rs.500/-, in default, to undergo simple imprisonment for one month. Challenging the said conviction and sentence, A2 to A5 have preferred the present petition seeking suspension of sentence.

2.Heard, Mr.P.Palaninathan, the learned counsel for the petitioners and Mrs.V.Sarathadevi, learned Government Advocate, appearing on behalf of the State and I have also perused the records carefully.

3.The learned Government Advocate would submit that there was a group clash between two elements in the occurrence village. On 25.03.2013, at about 11.00 p.m., the accused persons unlawfully assembled with deadly weapons with an intention to cause the death of the deceased Sanjeevi and other witnesses. The accused persons unruly committed rioting, abuse and waylaid the other group. She would further submit that there are clinching materials in support of the prosecution case and on the basis of the said materials, the Court below has passed the judgment, and there are enough materials to sustain the charge framed against the petitioners and as such, the petitioners are not entitled to be released on bail.

4.The learned counsel for the petitioners/A2 to A5 would submit that in a group clash, it is A1, who assaulted the deceased and the petitioners herein, who are A2 to A5, are in no way connected with the said action. He would further submit that there is no direct evidence to show that these petitioners involved in the murder of the deceased. There is no specific overt act attributed as against the petitioners herein. Hence, the learned counsel prays for suspension of sentence.

5.In view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the revision, as contended by learned counsel for the petitioners, this Court is of the considered view that the petitioners herein are entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that each of them shall execute 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 the learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil, and on further condition that the petitioners shall report before the trial Court daily at 10.30 a.m., pending disposal of the appeal.

-sd/-
07/01/2019

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, CUDDALORE.

2 THE DISTRICT MUNSIF-CUM-
JUDICIAL MAGISTRATE, KATTUMANNARKOIL.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
CHOZHATHARAM POLICE STATION,
SRIMUSHNAM, CUDDALORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.P.PALANINATHAN Advocate on payment of necessary
charges SR NO.349

Order

in
CRL MP.94/2019
in
CRL.A.NO.4/2019

Date :07/01/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
MK:09/01/2019