

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fifteenth 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.8517 of 2019

IN CRL.A.NO.392 OF 2019

ARUMUGAM

[PETITIONER]

Vs

STATE REP.BY

[RESPONDENT]

INSPECTOR OF POLICE,
E4 ABHIRAMAPURAM POLICE STATION,
CHENNAI.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.392/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the learned III Additional Sessions Judge at Chennai in SC.No.316 of 2011 dated 09.03.2018 and enlarge the petitioner/appellant on bail pending criminal appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.392/2019 on the file of the High Court and upon hearing the arguments of M/S.C.SAMIVEL, Advocate for the petitioner and of MR.R.PRATHAP KUMAR ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

[Order of the court was made by Justice M.M.SUNDRESH]

The petitioner/appellant is the sole accused in S.C.No.316 of 2011 on the file of the learned III Additional Sessions Judge, Chennai. After full-fledged trial, by judgement dated 09.03.2018, the learned Additional Sessions Judge has convicted the petitioner/appellant for offence under Section 302 of IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/- in default to suffer rigorous imprisonment for a further period of six months. Seeking suspension of sentence, the petitioner/appellant is before this court with this miscellaneous petition.

2. The case of the prosecution is that pursuant to the wordy quarrel between the petitioner and P.W.2, who are husband and wife, the deceased intervened and thereafter, the petitioner attacked the deceased with knife and committed the offence.

3. The learned counsel for the petitioner submitted that even as per the evidence of P.W.3, there was a wordy quarrel between P.W.1 and the deceased. There was no intention to commit murder. Even according to the prosecution, there was a wordy quarrel and that the petitioner has been under incarceration from 09.03.2018 onwards. According to the learned counsel, there are arguable in the appeal for acquittal or modification of the judgement of the trial. Therefore, the suspension of sentence petition will have to be allowed.

4. The learned Additional Public Prosecutor submitted that there were three witnesses examined and the eye witness had spoken about the occurrence. After having considered the available evidence convicted, the trial court has rightly convicted the petitioner for the offence under Section 302 of IPC and sentenced him accordingly. Therefore, this petition will have to be dismissed.

5. The occurrence was on 10.02.2011 at 11.00 p.m. The petitioner has been under incarceration from 09.03.2018 onwards. Even as per the version of the prosecution, there was a wordy quarrel between the petitioner and P.W.1. P.W.3 has stated about the reason why the petitioner and P.W.1 had vacated the previous residence, which was due to the presence of the deceased. The presence of the deceased at the time of quarrel has not been explained by the prosecuting agency properly. We also find 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 III Additional Sessions Judge, City Civil court, Chennai, 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/-

15/07/2019

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 III ADDITIONAL SESSIONS JUDGE
CITY CIVIL COURT, CHENNAI

2 THE XXIII METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
E4 ABHIRAMAPURAM POLICE STATION,
CHENNAI.

+1 C.C. to M/S.C.SAMIVEL Advocate on payment of necessary
charges SR.NO. 14527

Order

in

CRL MP.8517/2019

IN CRL.A.NO.392 OF 2019

Date :15/07/2019

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