

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.SATHYANARAYANAN

and

The Hon`ble Mr Justice M.NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.706 of 2019

in CRL.A.NO.34/2018

1 NAGARAJA REDDY

[PETITIONERS/APPELLANTS/ACCUSED]

2 SRIDHAR REDDY

Vs

STATE REPRESENTED BY

[RESPONDENT]

THE INSPECTOR OF POLICE,

HUDCO POLICE STATION,

HOSUR TALUK, KRISHNAGIRI DISTRICT.

CR.NO.251 OF 2004.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.34 OF 2018 on the file of the High Court, the High Court will be pleased to Suspend the sentence passed by the learned Addl. District and Sessions Judge, Hosur, Krishnagiri District in S.C.No.07 of 2007 dt.20.12.2018 against the petitioners, and enlarge the petitioners on bail pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.34 of 2018 on the file of the High Court and upon hearing the arguments of MR.C.R.MALARVANNAN, Advocate for the petitioner and of MR. R.PRATHAP KUMAR, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.SATHYANARAYANAN, J.]

The petitioners are accused nos.1 and 3 and they along with 12 others accused were charged, tried and convicted. A1 and A3 were convicted under Sections 120 (b), 148, 341, 302 IPC and sentenced to undergo one month Simple Imprisonment for the offence under Section 341 IPC, and sentenced to undergo life imprisonment and to pay a fine of Rs.1,500/- in default sentence of 6 months rigorous imprisonment for the commission of offence under Section 302 IPC, vide impugned judgment and challenging the conviction and sentence, awarded by the Trial Court vide impugned judgment, had filed this appeal and pending disposal of the same has filed this petition for suspension of

sentence.

2. The learned counsel appearing for the petitioner would submit that though P.W.1 was cited as a eyewitness and his presence was highly doubtful and also pointed out that the case of the prosecution bristles very many inconsistent reasons and infirmities and as such, the Trial Court ought to have been awarded benefit of doubt and since, he is having bright chance of success in this appeal, prays for suspension of sentence.

3. Mr.R.Prathapkumar, learned Additional Public Prosecutor appearing for the State would submit that testimony of P.W.1 / eyewitness is amply corroborated by P.W.3 to P.W.5 and it is also supported by scientific evidence and since, the murder took place on account of enmity, it is also not safe to leave the petitioners / accused by suspending their sentence and hence prays for dismissal of this petition.

4. This Court has carefully considered the rival submission and also perused the materials placed before it.

5. A perusal and consideration of the materials would disclose that the motive for the commission of offence is on account of construction of compound wall and enmity between the accused group and the deceased was also on communal ground. The scientific evidence would disclose that the deceased has been done to death brutally and the overt act attributed against these petitioners is that they cut both legs which also got severed. As rightly pointed out by the learned counsel appearing for the petitioner, the deceased was done to death not only on account of compound wall dispute but on account of communal line also. Considering the above facts and circumstances, this Court is not inclined to consider them for suspension of sentence.

6. In the result, this Criminal Miscellaneous Petition is dismissed.

-sd/-
28/02/2019

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 ADDL. DISTRICT AND SESSIONS
JUDGE, HOSUR, KRISHNAGIRI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
HUDCO POLICE STATION,
HOSUR TALUK, KRISHNAGIRI DISTRICT.

+1 C.C. to M/S.V.RAJAMOHAN Advocate on payment of necessary
charges-Sr.4298

Order

in
CRL MP.706/2019
in CRL.A.NO.34/2018

Date :28/02/2019

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