

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the First day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.813 of 2019

IN CRL A.38/2019

SETTU

[PETITIONER]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
THARAMANGALAM POLICE STATION,
SALEM DISTRICT.
(CR.NO.343 OF 2008)

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by judgment dated 19.12.2018 by the I Additional District and Sessions Judge, Salem in S.C.No.303 of 2010, and enlarge the petitioner on bail, pending disposal of the Crl.A.No.38 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.B.VASUDEVAN, Advocate for the petitioner, and of MR. V.SARATHA DEVI, Govt. Advocate (Crl. Side), on behalf of the Respondent, the court made the following order:-

The petitioner has been arrayed as A1 in S.C.No.303 of 2010, on the file of the I Additional District & Sessions Judge, Salem. By judgment dated 19.12.2018, he was convicted for offence under Section 3(1) of the Tamil Nadu Properties (Prevention of Damages and Loss) Act 1992 and sentenced to undergo six months simple imprisonment and to pay a fine of Rs.3000/-, in default, sentenced to undergo one month simple imprisonment. Challenging the said conviction and sentence, the petitioner has preferred the above appeal. Pending appeal, he seeks for suspension of sentence.

2.Learned counsel for the petitioner would submit that the petitioner has not committed any offence, as projected by the prosecution. He would further submit that he has been falsely implicated in this case and there is no overt act attributed as against the petitioner. In a wordy quarrel, someone pelted stone on

the bus and the petitioner is in no way connected with the occurrence. He would also submit that the trial Court suspended the sentence imposed on the petitioner. Further it is submitted by the learned counsel for the petitioner that there are several infirmities and inconsistencies found in the prosecution case. It is also contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses.

3. Heard the learned Government Advocate (Criminal Side) on the submissions made by learned counsel for petitioner.

4. Considering the facts and circumstances of the case and in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner, and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner 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 Judicial Magistrate, No.2, Omalur, and on further condition that the petitioner shall appear before the said Court once in a month, i.e. On the first working day of every month at 10.30 a.m. pending disposal of the appeal.

-sd/-

01/02/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE I ADDITIONAL DISTRICT & SESSIONS
JUDGE, SALEM.

2 THE JUDICIAL MAGISTRATE,
NO.2, OMALUR.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
THARAMANGALAM POLICE STATION,
SALEM DISTRICT.

<https://hcservices.ecourts.gov.in/hcservices/>

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.B.VASUDEVAN Advocate on payment of necessary charges

Order

in
CRL MP.813/2019

in
CRL A.38/2019

Date :01/02/2019

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