

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Seventh day of August 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.1203 OF 2019

IN CRL.A.NO.58 OF 2019

1 THANGESH
2 SURESH
3 PRAAKASH
4 ELUMALAI
5 RAJESH
6 SAHADEVAN

[PETITIONERS / APPELLANTS / ACCUSED]

Vs

STATE BY
INSPECTOR OF POLICE,
VANAPURAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.
CR.NO.82 OF 2011.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.58 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners herein by the learned Principal District and Sessions Judge, Tiruvannamalai, Tiruvannamalai District made in S.C.No.4 of 2012 by Judgment dated 21.12.2018 on his file and enlarge them on bail pending disposal of the above CRL.A.NO.58 OF 2019 [IN CRL.MP.NO.1203 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.58 OF 2019 on the file of the High Court and upon hearing the arguments of MR.N.R.ELANGO SENIOR COUNSEL FOR M/S.E.RAJ THILAK, 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 M.M.SUNDRESH,J)

The petitioners have been arrayed as accused in S.C.No.4 of 2012 on the file of learned Principal District and Sessions Judge, Tiruvannamalai, Tiruvannamalai District. The trial Court by judgment dated 21.12.2018 convicted petitioners 1 and 3 for the offence punishable under Sections 147, 148, 294(b), 302, 326 r/w 149-506(ii) r/w 149 IPC, second petitioner for the offence

punishable under Sections 147, 148, 294(b), 302, 326, 506(ii) r/w 149 IPC and petitioners 4 to 6 for the offence punishable under Sections 147, 148, 294(b), 302 r/w 149, 324, 326 r/w 149, 506(ii) r/w 149 IPC and for the offence under Sections 147, 148, 506(ii) r/w 149 IPC, the petitioners were sentenced to undergo two years simple imprisonment and to pay a fine of Rs.1,000/- each in default to undergo three months simple imprisonment and for the offence under Section 294(b) IPC, sentenced to undergo three months simple imprisonment and to pay a fine of Rs.500/- each in default to undergo one week simple imprisonment, for the offence under Section 302 IPC, sentenced petitioners 1 to 3 to undergo life imprisonment, for the offence under Section 302 r/w 149 IPC, sentenced petitioners 4 to 6 to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two years rigorous imprisonment, for the offence under Section 326 r/w 149 IPC, sentenced petitioners 1 and 3 to 6 to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo two years rigorous imprisonment, for the offence under Section 324 IPC, sentenced petitioners 4 to 6 to undergo two years simple imprisonment and to pay a fine of Rs.1,000/- each in default to undergo three months simple imprisonment and ordered the sentences to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2. The learned senior counsel appearing for the petitioners would submit that the case as projected by the prosecution is not supported by the Doctor's evidence. Even according to the evidence of P.W.1, there was fight between the accused and the deceased. The motive itself was with respect to the alleged remarks made by the deceased against the sister of A1. The accident register pertaining to the injuries suffered by the accused has not been marked. There is no investigation done on that. Thus, there are arguable points available in the appeal. Therefore, taking into consideration the period of incarceration and the issues involved, the sentence will have to be suspended.

3. The learned Additional Public Prosecutor appearing for the State would submit that there are four witnesses available i.e., P.Ws 1 to 4. The witnesses have clearly spoken about the occurrence. The petitioners are the aggressors. The trial Court considered the relevant materials while rendering the conviction. Thus, this petition will have to be dismissed.

4. We do find arguable points available in the appeal. On a perusal, we find that the Doctor does not find any stab injuries as against lacerated injuries. Further, the accident register pertaining to the accused has not been marked. Even the evidence of P.W.1 is to the effect that there was a wordy quarrel followed by fight among the accused and the deceased.

5.Considering the above, we do find arguable points available in the appeal and we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of 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 the learned Judicial Magistrate No.1, Tiruvannamalai and on further condition that the petitioners shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

27/08/2019

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 JUDICIAL MAGISTRATE,
NO.I, THIRUVANNAMALAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE. सत्यमेव जयते

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
VANAPURAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

+4C.C. to M/S.E.RAJ THILAK Advocate on payment of necessary charges SR NO.17826, 18236

Order

in
CRL MP.1203/2019
in
CRL A.58/2019

Date :27/08/2019

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MK:28/08/2019



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