

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Sixth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.1485 OF 2019

IN CRL.A.NO.525 OF 2019

PREMA

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
B-1 UDHAMANDALAM TOWN POLICE STATON,
UTHAGAMANDALAM,
THE NILGIRIS DISTRICT
CR.NO.154 OF 2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.525 OF 2019 on the file of the High Court, the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed in S.C.No.28 of 2015 dated 31.01.2018 on the file of Sessions Court of Mahilar Neethimandram (FTMC), Uthagamandalam (Nilgiris) pending disposal of CRL.A.NO.525 OF 2019 [IN CRL.MP.NO.1485 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.525 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.T.MURUGANANTHAM, 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.SATHYANARAYANAN, J.]

The petitioner is arrayed as A4 in Sc.No.28/2015 and she along with three other accused were prosecuted for the commission of the offences u/s.120-B and 302 IPC and the Trial Court, viz., the Court of Sessions Judge-Mahila Court, Udhagamandalam @ Nilgiris, vide impugned judgment dated 31.01.2018 had convicted the petitioner/A4 for the commission of the offence u/s.302 read with 34 IPC and sentenced her to undergo rigorous imprisonment for life and to pay a fine of Rs.3,000/- with a default sentence of 3 months simple imprisonment. The Trial Court also convicted A1 and A2 for the commission of the offence u/s.302 IPC and A3 for the commission of

the offence u/s.302 read with 34 IPC. Challenging the said conviction and sentence, the petitioner/appellant preferred the present appeal and pending appeal, she had filed the present petition seeking suspension of the substantive sentence of imprisonment.

2 The case of the prosecution is that two years prior to the commission of the offence on 15.04.2013, there was a dispute between the families of the accused and deceased pertaining to fetching of water in the common pipeline in Old Ooty and due to the said enmity, A1 to A4 had entered into criminal conspiracy to murder Aruldoss and Franklin and they also shared the common intention to do away with their lives and as a consequence of the conspiracy, on 15.04.2013 at about 20.30 hours, A2 accosted the deceased Franklin and P.W.2 and wantonly invited them to have a fight and in the process, petitioner/A4 caught hold of the deceased Aruldoss and asked her husband/A1 to stab Aruldoss and accordingly, A1 took a knife from his back and stabbed Aruldoss on his neck and left ribs and A3 caught hold of the deceased Franklin and A2 took a brandy bottle from the ground ; broke it and using the same, had repeatedly stabbed on the chest of Franklin and as a consequence, both of them died.

3 The learned counsel for the petitioner/A4 would submit that in respect of the suspension of substantive sentence of imprisonment imposed on A3 who stands on similar footing, this Court, vide order dated 22.10.2018 in CrI.MP.No.8838/2018 in CrI.A.No.380/2018, has suspended the substantive sentence of imprisonment subject to certain conditions and in the light of the fact that there was a previous enmity and there was a wordy altercation prior to the commission of the offence and that the evidence let in by the prosecution as to the overt act on the part of the petitioner/A4 also cannot be trustworthy and believable and prays for suspension of the sentence.

4 *Per contra*, Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the State would submit the eyewitnesses to the occurrence had clearly spoken to about the overt act on the part of the petitioner/A-4 and prays for dismissal of this petition.

5 This Court has considered the rival submissions and also perused the materials placed before it including the impugned judgment.

6 The petitioner/A4 is the wife of A1 and according to the prosecution she caught hold of the deceased Aruldoss and asked her husband, viz., A-1 to stab him and accordingly, A-1 took a knife and stabbed the deceased Aruldoss on his neck and left ribs and as a consequence of the fatal injuries he died. It is also to be noted at this juncture that A1 and A4 also got injuries and there appears to be a wordy altercation prior to the commission of the offence. In respect of the wife of A2, viz., A-3, who also stands on similar footing, this Court vide the above cited order, has suspended the substantive sentence of imprisonment and since the petitioner/A4 - wife of A1 also stands on similar footing, considering the above facts and circumstances and that the petitioner/A has also got no bad

antecedents, this court is inclined to suspend the substantive sentence of imprisonment imposed against the petitioner/A4 alone pending disposal of the appeal.

7 In the result, the petition is **ordered** and the substantive sentence of imprisonment alone in respect of the petitioner/A4 is suspended and the petitioner/A4 directed to be enlarged on bail on condition that the petitioner/A4 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, Udhagamandalam and on further condition that the petitioner/A4 shall appear before the Committal Court, viz., the Court of Judicial Magistrate, Udhagamandalam, on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

-sd/-
06/03/2019

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 SESSIONS JUDGE-MAHILA COURT,
UDHAGAMANDALAM @ NILGIRIS

2 THE SESSIONS COURT
MAHILAR NEETHIMANDRAM (FTMC),
UTHAGAMANDALAM (NILGIRIS)

3 THE JUDICIAL MAGISTRATE,
UTHAGAMANDALAM.

4 THE CHIEF JUDICIAL MAGISTRATE
NILGIRIS [FOR INFORMATION]

5 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, COIMBATORE.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

7 THE INSPECTOR OF POLICE,
B-1 UDHAMANDALAM TOWN POLICE STATON,
UTHAGAMANDALAM,
THE NILGIRIS DISTRICT.

+1C.C. to M/S.T.MURUGANANTHAM Advocate on payment of necessary charges SR NO.4767

Order

in
CRL MP.1485/2019
IN CRL.A.NO.525/2019

Date :06/03/2019

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MK:11/03/2019