

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirty First 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.5519 OF 2019

IN CRL.A.NO.485 OF 2019

NEWTON

[APPELLANT / ACCUSED 2]

Vs

STATE, REP BY,
THE INSPECTOR OF POLICE
KARUVEPPILANKURICHI POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.117 OF 2010

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.485 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the appellant by the learned III Additional District and Sessions Court of Cuddalore at Virudhachalam, dated 21.12.2013 passed in S.C.No.227 of 2011 and enlarge the petitioner on bail pending the disposal of CRL.A.NO.485 OF 2019 [IN CRL.MP.NO.5519 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.485 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.A.SARAVANAN, 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 petitioner has been arrayed as A2 for the major offence punishable under Section 302 IPC in S.C. No. 227 of 2011 on the file of the III Additional District and Sessions Judge, Cuddalore at Virudachalam. The trial Court, by judgment, dated 21.12.2013 convicted the petitioner for the offence under Section 417 IPC and sentenced to undergo rigorous imprisonment for a period of six months; for the offence punishable under Section 394 r/w 397 IPC, sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.200/-, in default, to undergo two years rigorous imprisonment, for the offence punishable under Section 302 r/w 34

IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.200/- in default to undergo two years rigorous imprisonment and the sentences are ordered to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2. The case of the prosecution is that the petitioner along with A1 committed the offence and thereafter took the lorry.

3. The learned counsel appearing for the petitioner would submit that the case is based upon the circumstantial evidence. The motive has not been established. The petitioner, in total, has been in incarceration for more than nine years. There are valuable points available in the appeal and therefore, this petition will have to be allowed.

4. The learned Additional Public Prosecutor would submit that the link has been clearly proved. It has been supported by the recovery under Section 27 of the Indian Evidence Act. Thus, this petition will have to be dismissed.

5. Taking note of the fact that the petitioner was in incarceration and thereafter undergoing the same for cumulative period of nine years as of now is not in dispute. We are dealing with a case of circumstantial evidence. We do find that there are arguable points available in the appeal.

6. Considering the above coupled with the fact that there are valuable points available in the appeal, 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 District and Sessions Judge, Cuddalore at Virudachalam and on further condition that the petitioner shall appear before the concerned Court on the first working day of every month at 10.00 a.m. pending appeal.

सत्यमेव जयते
-sd/-

31/07/2019

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 THE III ADDITIONAL DISTRICT
AND SESSIONS COURT OF CUDDALORE
AT VIRUDHACHALAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
KARUVEPPILANKURICHI POLICE STATION,
CUDDALORE DISTRICT.

+1C.C. to M/S.A.SARAVANAN Advocate on payment of necessary
charges SR NO.15792

Order

in
CRL MP.5519/2019

in
CRL A.485/2019

Date :31/07/2019

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copies of the BAIL/Anti.BAIL Orders in this format

TA:02/08/2019

सत्यमेव जयते

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