

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourth 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.8271 of 2019

in CRL A.No.264 of 2018

THANGA @ THANGARAJ

[PETITIONER / ACCUSED]

Vs

THE INSPECTOR OF POLICE,
B5 SINGANALLUR POLICE STATION,
SINGANALLUR,
COIMBATORE.
(CRIME NO.3031 OF 2017)

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.No.264 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed against the petitioner/accused No.1 and 2 in SC No.185 of 2012 on the file of 4th Additional District Sessions Judge, Coimbatore enlarging the bail pending disposal of the Crl.Appeal No.264 of 2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.No.264 of 2018 on the file of the High Court and upon hearing the arguments of M/S.DEIVASIGAMANI C., 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 was arrayed as A1 in S.C. No. 185 of 2012 and accordingly, the IV Additional District and Sessions Judge, Coimbatore, by judgment, dated 05.02.2018, convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo two months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2. This is the second petition filed by the petitioner as the earlier petition filed by him was not pressed on 18.09.2018. The petitioner along with the other accused were convicted for the major offence punishable under Section 302 IPC. A3 to A5 were convicted by the trial Court while A2 was convicted for the offence punishable under Section 307 IPC. On 18.09.2018, this Court has suspended the sentence insofar as A2 is concerned.

3. The learned counsel appearing for the petitioner would submit that the occurrence alleged was in pursuance of the wordy quarrel. The petitioner has been under incarceration from 05.02.2018 onwards. Nearly one-and-half years have elapsed. It is further submitted by the petitioner that, what is applicable to A3 to A5 will have to be applied to the case of the petitioner. Even otherwise, the offence punishable under Section 302 IPC will not be made out. Therefore, the suspension of sentence petition will have to be allowed.

4. The learned Additional Public Prosecutor would submit that there are eye witnesses available in this case. The overt act attributed against A3 and A5 was different so also A2. The trial Court, considering the relevant materials available on record, convicted the petitioner. Hence, the petition will have to be dismissed.

5. From the date of judgment i.e., 05.02.2018 onwards the petitioner has been under incarceration. The other accused were either acquitted or got the sentence suspended. Though the overt act attributed against the petitioner is different, taking note of the fact that the petitioner is stated to have stabbed the deceased through a single strike coupled with the further fact that there was a wordy quarrel preceding the same, we are of the view that the issue as to whether the offence punishable under Section 302 IPC would arise or not is a matter to be decided in the appeal.

6. Considering the above, the substantive sentence of imprisonment alone is suspended on condition 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 4th Additional District Judge, Coimbatore and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

04/07/2019

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 V ADDITIONAL DISTRICT JUDGE,
COIMBATORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
B5 SINGANALLUR POLICE STATION,
SINGANALLUR, COIMBATORE

4 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE

+1 C.C. to M/S.DEIVASIGAMANI C. Advocate on payment of
necessary charges SR.NO.13479

Order

in

CRL MP.8271/2019

in

CRL A.264/2018

Date :04/07/2019

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