

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Ninth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.6475 of 2019

IN CRL A.262/2019

1 NAGARAJAN [PETITIONERS/APPELLANTS
2 SIVASANKAR ACCUSED]
3 VIJAY
4 VIJAYAKUMAR

Vs

STATE [RESPONDENT/COMPLAINANT]
THE INSPECTOR OF POLICE,
ERUMAPPATTY POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.70/2014.

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence made in S.C.No.51/2015 on the file of Principal Sessions Judge, Namakkal, order dated 25.04.2019 and release the petitioners/Appellants/Accused on bail, pending disposal of the above Crl.A.No.262 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.A.PADMANABAN, Advocate for the petitioners, and of MRS. M.PRABHAVATHI, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

The Criminal Appeal has been filed as against the Judgment of conviction and sentence passed by the learned Principal Sessions Judge, Namakkal dated 25.04.2019 in SC No.51 of 2015, wherein, the Trial Court sentencing the accused persons to undergo R.I for 5 years each for the offence under Section 120(b) and to pay a fine of Rs.2,000/- each in default further S.I for 15 months, the appellants 1 and 2 to undergo R.I for 5 years each for the offence under Section 307 IPC and to pay a fine of Rs.1,000/- each in default further S.I for 15 months, the appellant 3 to undergo R.I for 5 years for the offence under Section 307 r/w. 34 IPC and to pay a fine of Rs.2,000/-

in default further S.I for 15 months and the appellant 4 to undergo R.I for 5 years for the offence under Section 307 r/w 120(b) IPC and to pay a fine of Rs.2,000/- in default further S.I for 15 months. The above sentences are ordered to be run concurrently. Pending appeal, the petitioner has filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2. The learned counsel for the petitioner submitted that except for the extra judicial confession alleged to have been given by the appellants to the VAO, there is no other material available against these petitioners. The learned counsel further submitted that almost all the witnesses turned hostile and did not support the case of the prosecution. The learned counsel further submitted that in this case admittedly the victim died, but, however, the trial Court itself was not very sure as to whether, the case has been made out by the prosecution and has proceeded to convict the petitioners under Section 307 IPC. The learned counsel appearing for the petitioners submitted that the petitioners have a fair chance of success in the appeal and there are arguable points involved in the Appeal.

3. The learned Additional Public Prosecutor submitted that the Court below has appreciated the entire evidence and has given elaborate reasons for convicting and sentencing the petitioners.

4. This Court carefully considered the submissions made on either side.

5. Considering the facts and circumstances of the case and in view of the fact that there are arguable points which require a consideration in the appeal and the appeal cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below.

6. The sentence imposed by the Court below vide Judgment made in SC No.51 of 2015 on the file of learned Principal Sessions Judge, Namakkal dated 25.04.2019 is hereby suspended and the petitioners are directed to be enlarged on bail, on condition that each of 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 I, Namakkal and to appear before the learned learned Judicial Magistrate I, Namakkal, on the first working day of every week at 10.30 a.m. until further orders and the petitioners are also directed to deposit the fine amount imposed by the Trial Court.

-sd/-

09/05/2019

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

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High Court, Madras - 600 104.

TO

1 THE PRINCIPAL SESSIONS
JUDGE, NAMAKKAL.

2 THE JUDICIAL MAGISTRATE,
NO.I, NAMAKKAL.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ERUMAPPATTY POLICE STATION,
NAMAKKAL DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

+1 C.C. to M/S.A.PADMANABAN Advocate on payment of necessary
charges SR.NO.9728

Order

in
CRL MP.6475/2019

in
CRL A.262/2019

Date :09/05/2019

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