

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.6478 of 2019

IN CRL A.263/2019

1 RAJESH
2 RAMESH
3 KUMARESAN
4 PERIYATHAMBI
5 RAMASAMY
6 SHANMUGAM

[PETITIONERS / APPELLANTS / ACCUSED]

Vs

STATE BY [RESPONDENT]
THE DEPUTY SUPERINTENDENT OF POLICE,
KAVERIPATTINAM POLICE STATION,
KRISHNAGIRI DISTRICT.
CR.NO.504/2017.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.263/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioners in S.C.No.114/2017 on the file of the Learned Principal Sessions Judge, Krishnagiri, Krishnagiri District dated 09.04.2019 and enlarge the petitioners on bail pending disposal of the said CRL A.263/2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.263/2019 on the file of the High Court and upon hearing the arguments of M/S.E.KANNADASAN, Advocate for the petitioner and of M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This appeal has been filed against the judgment of the learned Principal Sessions Judge, Kirhsnagiri, Krishnagiri District, dated 09.04.2019, made in S.C.No.114 of 2017 convicting and sentencing the petitioners for the offence under Section 147 of I.P.C. and imposing a fine of Rs.1000/- each in default, to undergo simple imprisonment for one month each (Totally Rs.6,000/-) and convicting for the offence under Section 506(ii) of I.P.C. and sentencing to undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- each in default, to undergo simple imprisonment for one month each (Totally Rs.6000/-) and convicting the petitioners 1, 3, 4 and 6 for the offence under Sections 3(1)(r) & (s) of SC/ST Act and sentencing to undergo rigorous imprisonment for one month (Totally Rs.8000/-)

and convicting for the offence under Section 323 of IPC (3 counts) each and imposing a fine of Rs.1000/- for each counts totally Rs.3000/- for each petitioners in default to undergo simple imprisonment for one month each (Totally Rs.12,000/-) and convicting the 1st petitioner for the offence under Section 324 of I.P.C. (2 counts) and sentencing to undergo simple imprisonment for six months for each counts and to pay a fine of Rs.1000/- for each counts in default to undergo simple imprisonment for one month (Totally Rs.2000/-) and convicting the 2nd petitioner for the offence under Section 325 of I.P.C. and sentencing to undergo rigorous imprisonment for one year and to pay a fine of Rs.1000/- in default to undergo simple imprisonment for the month and convicting the petitioners 3 and 4 for the offence under Section 324 of I.P.C. and sentencing to undergo simple imprisonment for six months and to pay a fine of Rs.1000/- each in default to undergo simple imprisonment for one month each and the sentences were ordered to 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 petitioners submitted that there was a material contradiction between the evidence of P.W.6 on the one hand and the evidence of P.W.1 to P.W.3 on the other hand with regard to the place of occurrence and the number of persons who had assaulted them. The learned counsel further submitted that no independent witnesses were examined in this cases even though the incident is said to have taken place in the coconut grove and the Court below has proceeded to convict the petitioners merely based on the evidence of P.W.1 to P.W.3. The learned counsel further submitted that there are material contradictions in the evidence of the witnesses and the prosecution failed to prove the case beyond reasonable doubts against the petitioners. The learned counsel submitted that the Court below has suspended the sentence till 10.06.2019 and the petitioners have already deposited the entire fine amount.

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 S.C.No.114 of 2017, dated 09.04.2019, on the file of the learned Principal Sessions Judge, Krishnagiri, Krishnagiri District, is hereby suspended, and the petitioner is directed to be enlarged on bail, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Krishnagiri, and shall appear before the said learned Principal Sessions Judge every week on Monday at 10.30 a.m. until further orders.

-sd/-

08/05/2019

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 PRINCIPAL SESSIONS JUDGE,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE DEPUTY SUPERINTENDENT OF POLICE,
KAVERIPATTINAM POLICE STATION,
KRISHNAGIRI DISTRICT.

+1C.C. to M/S.E.KANNADASAN Advocate on payment of necessary charges SR NO.9382

Order

in
CRL MP.6478/2019

in
CRL A.263/2019

Date :08/05/2019

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MK:09/05/2019

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