

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the 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.6534 of 2019

in CRL.A.No.729 of 2018

SIVAKUMAR

[PETITIONER / APPELLANT]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
M-3 KOVILPALAYAM POLICE STATION,
COIMBATORE
CRIME NO.294 OF 2014.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.729 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner on 09.01.2018 in S.C.No.195 of 2015 on the file of the IV Additional District and Sessions Court, Coimbatore and release the petitioner on bail tiill the disposal of the Criminal Appeal No.729 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.729 of 2018 on the file of the High Court and upon hearing the arguments of M/S.P.PUGALENTHI, 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 is the sole accused in S.C. No. 195 of 2015 and he ahs been convicted for the offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of two months and the sentence already undergone by him was ordered to be set off under Section 428 Cr.P.C. Seeking suspension of sentence, the present petition has been filed.

2.The learned counsel appearing for the petitioner submits that it is a case of circumstantial evidence. All the witnesses turned hostile. The deceased is none other than the maternal uncle of the petitioner. The link has not been established. The trial Court, notwithstanding the fact that the witnesses turned hostile, convicted the petitioner. The petitioner has been in incarceration for nearly one-and-half years. The judgment was delivered on 29.01.2018, therefore, the petition will have to be allowed.

3.The learned Additional Public Prosecutor submits that the conviction of the trial Court will have to be seen. Even after the death of his mother, the petitioner did not go over and perform his last rites. The trial Court, considering the relevant materials available on record, convicted the petitioner. Hence, the petition will have to be dismissed.

4.As submitted by the learned counsel appearing for the petitioner, it is a case of circumstantial evidence. The witnesses have turned hostile. We find that there are material issues involved to be decided in the appeal. The petitioner has been in incarceration from 29.01.2018 onwards.

5.Accordingly, 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 IV Additional District and Sessions Court, 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/-

01/07/2019

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 IV ADDITIONAL DISTRICT AND SESSION JUDGE,
COIMBATORE

2 THE SUPERINTENDENT,
CENTRAL PRISON,
COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
M-3 KOVILPALAYAM POLICE STATION,
COIMBATORE DISTRICT

+1 C.C. to M/S.P.PUGALENTHI Advocate on payment of necessary
charges SR.NO.13074

Order

in
CRL MP.6534/2019
in
CRL.A.729/2018

Date :01/07/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

cm 01/07/2019

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