

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Seventeenth day of June 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.7164 of 2019

IN CRL.A.NO.834 OF 2018

ARIVAZHAGAN

[PETITIONER]

Vs

THE INSPECTOR OF POLICE,
T.PUTHUR POLICE STATION,
KAATUMANARKOIL CIRCLE,
CUDDALORE DISTRICT.
CR.NO.109 OF 2012

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.834/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgment dated 02.11.2018 against the petitioner in SC No.154/2015 (on the file of the II Additional District and Sessions Court, Chidambaram) and release the petitioner on bail CRL.MP.NO.7164/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.834/2018 on the file of the High Court and upon hearing the arguments of M/S.D.ASHOK KUMAR, Advocate for the petitioner and of MR.R.PRATHAP KUMAR ADDL.PUBLIC PROSECUTOR [CRL.SIDE] on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner stands convicted for the offence punishable under Sections 147, 452, 427 and 302 r/w 34 IPC and sentenced to undergo 3 months rigorous imprisonment for the offence punishable under Sec.147 IPC; 3 years rigorous imprisonment for 452 IPC and a fine of Rs.1,000/-, in default, to undergo 6 months simple imprisonment; 6 months rigorous imprisonment for the offence under Sec.427 IPC and a fine of Rs.500/- and in default, to undergo 2 months simple imprisonment and life imprisonment for the offence under Sec.302 r/w 34 IPC and a fine of Rs.2,000/-, in default, 1 year simple imprisonment, and the sentences are ordered to run concurrently. Seeking suspension of the above sentence of imprisonment imposed in S.C.NO.154 of 2015 on the file of the II Additional Sessions Court,

Chidambaram, the petitioner has come forward with this petition.

2. The petitioner has been arrayed as A.6 in S.C. No.154 of 2015 on the file of the II Additional District and Sessions Court, Chidambaram. The case of the prosecution is that there was previous enmity between the family of A.2 and A.3 and the deceased. The overt act attributed against the the petitioner/A.6 is that he attacked P.W.5 and caused injuries, in which, the petitioner/A.6 also sustained injuries. However, no case has been registered for the offence committed against the petitioner.

4. The learned counsel appearing for the petitioner submitted that the overt act attributed against the petitioner is that he only attacked P.W.5 and caused injuries and further submitted that there are many arguable points in the appeal and the petitioner has been incarcerated for more than 8 months and therefore, filed the above petition, seeking suspension of sentence.

5. The learned Additional Public Prosecutor submits that D.W.1 and D.W.2 were examined with respect to the injuries sustained. He also submits that the trial Court considered the relevant materials for convicting the petitioner and the earlier application, filed by the petitioner was dismissed on 08.02.2019.

6. We do find several issues involved to be decided in the appeal. The overt act attributed against the petitioner is that he attacked only P.W.5 and caused injuries. In any case, prima facie, the offence under Sec.302 r/w 34 IPC may not be attracted. There was also no electricity supply at time of alleged occurrence, especially at the time of rioting in the village and there was pitch of darkness. The petitioner is in incarceration for more than eight months. In such view of the matter, we are inclined to suspend the sentence.

7. 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 II Additional District and Sessions Court, 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/-

17/06/2019

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 II ADDITIONAL DISTRICT AND SESSIONS JUDGE
CHIDAMBARAM

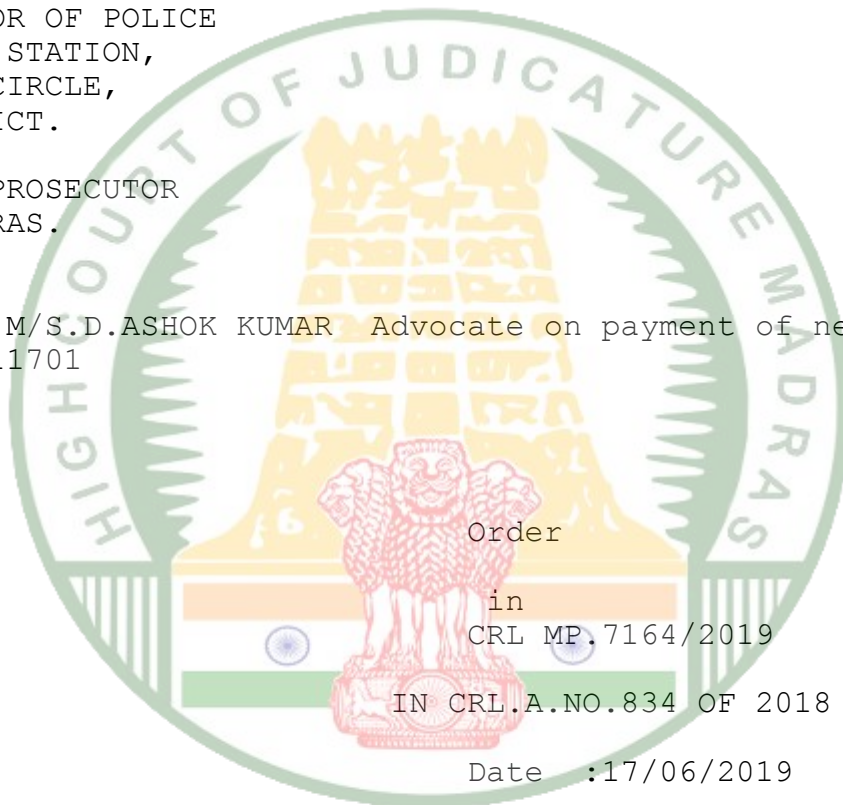
2 THE CHIEF JUDICIAL MAGISTRATE
CUDDLORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDLORE

4 THE INSPECTOR OF POLICE
T.PUTHUR POLICE STATION,
KAATUMANARKOIL CIRCLE,
CUDDLORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.D.ASHOK KUMAR Advocate on payment of necessary
charges SR.NO. 11701



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