

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of October Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.13607 of 2019

IN CRL.A.NO.634 OF 2019

AALEE @ BALASUBRAMANIAN

[PETITIONER / ACCUSED]

Vs

THE STATE REPRESENTED BY

[RESPONDENT]

INSPECTOR OF POLICE,
NEYVELI TOWNSHIP POLICE STATION,
CUDDALORE DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.634 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of life imprisonment and to pay a fine of Rs.1,000/- and in default of payment fine to undergo 6 month simple imprisonment duly passed in S.C.No.30/2018 dated 16.04.2019 on the file of III Additional District and Sessions Judge, Cuddalore at Vridhachalam pending disposal of the main CRL.A.NO.634 OF 2019 [IN CRL.MP.NO.13607 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.634 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.JAVID AKBAR M.I, Advocate for the petitioner and of MR.K.PRABAKAR, 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 has been arrayed as sole accused in S.C.No.30 of 2018 on the file of III Additional District and Session Judge, Cuddalore at Virudhachalam. The trial Court by judgment dated 16.04.2019 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.1,000/-, in default, to undergo six months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The petitioner and the deceased are close relatives. The deceased was angry with the petitioner, as the petitioner was having relationship with his sister-in-law. When it was objected to, the petitioner attacked the deceased with the wooden log on the head and committed the offence.

3. The learned counsel appearing for the petitioner would submit that the occurrence even assuming is true, has been proceeded by the fight instigated by the accused. Even according to the prosecution, the overt act is that the petitioner attacked the deceased with wooden log on the head. Therefore, this is a case where either Part(I) or Part (II) of 304 IPC would be attracted. Hence, the sentence imposed will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State would submit that P.W.1, who is the wife of the deceased being the author of the FIR. She is the eye witness and she has deposed that the petitioner attacked the deceased and committed the offence. The trial Court took the evidence of other witnesses and rendered conviction. Thus, the petition will have to be dismissed.

5. We have perused the documents. *Prima facie*, it appears to be a case which would attract 304 (I) or 304 (II) IPC, as the case may be. The petitioner is stated to have attacked the deceased with the wooden log which is also a single blow. The wooden log was also lying in the ground. Therefore, it is a case of premeditation which is a matter for consideration at the time of final hearing. We do find sufficient points in the appeal to be adjudicated upon. The observation made is only for the limited extent to the disposal of this petition.

6. Considering the above coupled with the period of incarceration of the petitioner, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that 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 the District Munsif cum Judicial Magistrate, Neyveli and on further condition that the petitioner shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-
23/10/2019

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 III ADDITIONAL DISTRICT AND
SESSIONS JUDGE, CUDDALORE AT VIRUDHACHALAM.

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, NEYVELI.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
NEYVELI TOWNSHIP POLICE STATION,
CUDDALORE DISTRICT.

+2C.C. to M/S.JAVID AKBAR M.I Advocate on payment of
necessary charges SR NO.21847

Order

in
CRL MP.13607/2019

in
CRL.A.634/2019

Date :23/10/2019

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MK:23/10/2019

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