IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Seventh 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.8058 of 2019

IN CRL.A.NO.641 OF 2018

SELVARAJ [PETITIONER]

Vs

STATE REP. BY [RESPONDENT]
THE INSPECTOR OF POLICE,
POLUR POLICE STATION,
TIRUVANNAMALAI DISTRICT.
(CR.NO.437 OF 2008)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.641/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of this petitioner in S.C.No.84 of 2009 on the file of Principal District and Sessions Judge, Tiruvannamalai enlarge him on bail pending Appeal in C.A.No.641 of 2018.[CRL.MP.NO.8058/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.641/2018 on the file of the High Court and upon hearing the arguments of M/S.RAMESH KUMAR CHOPRA 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 who has been arrayed as A1 in S.C.No. 84 of 2009 and convicted for the major offence under Section 302 IPC coupled with the other offence under Sections 147, 325 and 506(ii) IPC, seeks suspension of sentence.

2.The learned counsel appearing for the petitioner submitted that all other accused have been enlarged on bail. PW1 who is the author of the complaint has stated that the thumb impression has been obtained in the blank papers. The eye witnesses have deposed that they have come to the place of occurrence after the occurrence has

taken place. The petitioner is the father and the other accused namely A3 to A5 are his sons. Therefore, the learned counsel for the petitioner prays that the sentence will have to be suspended and the petition has to be allowed.

3. The learned Additional Public Prosecutor submitted that there are two injured eye witnesses. The petitioner stands on a different footing than A3 to A5. Thus, the petition will have to be dismissed.

4. The petitioner being the father of A3 to A5 has been in incarceration from 20.09.2018 onwards. We have perused the records including the evidence of PW1 and PW2. PW1 has deposed that he has affixed his thumb impression in the blank papers. There is also a dispute with respect to the scene of the occurrence. The other eye witnesses have also stated that they came to the scene of occurrence after the occurrence. Thus, we find considerable points involved to be decided in the appeal particularly when the petitioner who is aged about 66 years has been in incarceration from 20.09.2018 onwards.

5.In view of the above, 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 Judicial Magistrate, Polur 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/-
27/06/2019

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 JUDICIAL MAGISTRATE,
POLUR

2 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE,TIRUVANNAMALAI

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI[FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON,VELORE

5 THE INSPECTOR OF POLICE,
POLUR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.RAMESH KUMAR CHOPRA Advocate on payment of necessary charges SR.NO. 12763

Order

in
CRL MP.8058/2019

IN CRL.A.NO.641 OF 2018

Date :27/06/2019

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RD 27/06/2019