

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eighteenth 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.8520 & 9181 of 2019

AND CRL.A.No.815 & 832 of 2018

1 ANBAZHAGAN [PETITIONER APPELLANTS IN
2 RAMASAMY CRL.M.P.NO.8520/2019 AND CRL.A.No.815/2018]

1 VISWANATHAN [PETITIONER APPELLANTS IN
2 KALAIVANI CRL.M.P.NO.9181/2019 AND CRL.A.No.832/2018]

Vs

STATE REP BY [RESPONDENT IN BOTH THE PETITIONS]
THE INSPECTOR OF POLICE
PUTHUR POLICE STATION,
KAATUMANARKOIL CIRCLE,
CUDDALORE DISTRICT.
CR.NO.109 OF 2012

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence imposed in the judgment dated 02.11.2018 against the petitioners in S.C.No.154/2015 (on the file of the II Additional District and Sessions Court, Chidambaram) and release the petitioners on bail in Crl.A.Nos.832 & 815 of 2018. (Crl.M.P.Nos.8520 & 9181/2019 and Crl.A.No.815 & 832/2018)

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.SATHIA CHANDRAN S., Advocate for the petitioner in (CRL.M.P.NO.8520/2019 AND CRL.A.No.815/2018) and of M/S.R.SANKARASUBBU, Advocate for the petitioner in (CRL.M.P.NO.9181/2019 AND CRL.A.No.832/2018) of MR.R.PRATHAP KUMAR (ADDITIONAL PUBLIC PROSECUTOR) [IN BOTH THE PETITIONS] on behalf of the Respondents the court made the following order:-

(Order of the Court was made by *M.M.SUNDRESH,J*)

The petitioners in Crl.M.P.No. 8520 of 2019 in Crl.A.No. 815 of 2018 have been arrayed as A7 and A9 in S.C. No. 154 of 2015 for the offence punishable under Sections 147, 452, 302 r/w 34, 452 IPC on the file of the II Additional District and Sessions Court, Chidambaram. The trial Court, by judgment, dated 02.11.2018, convicted the petitioners and for the offence punishable under Section 147 IPC, sentenced to undergo three months rigorous imprisonment, for the offence punishable under Section 452 IPC, sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment, for the offence punishable under Section 427 IPC, sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/-, in default to undergo two months simple imprisonment and for the offence punishable under Section 302 r/w 34 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo one year simple imprisonment.

2.The petitioners in Crl.M.P.No. 9181 of 2019 in Crl.A.No. 815 of 2018 have been arrayed as A2 and A3 in S.C. No. 154 of 2015 for the offence punishable under Sections 148 and 302 IPC and 148, 452, 427 and 302 IPC respectively on the file of the II Additional District and Sessions Court, Chidambaram. The trial Court, by judgment, dated 02.11.2018, convicted A2 and for the offence punishable under Section 148 IPC, sentenced to undergo six months rigorous imprisonment and for the offence punishable under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo one year simple imprisonment and convicted A3 and for the offence punishable under Section 148 IPC, sentenced to undergo six months rigorous imprisonment, for the offence punishable under Section 452 IPC, sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one year simple imprisonment and for the offence under Section 427 IPC, sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/- in default to undergo two months simple imprisonment and for the offence punishable under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- in default to undergo one year simple imprisonment. Seeking suspension of sentence, the present petitions have been filed.

3.Heard the learned counsel appearing on behalf of the petitioners and the learned Additional Public Prosecutor appearing on behalf of the respondents.

4.The case of the prosecution is that in view of the previous enmity, all the accused joined together, went to the place of the deceased who was supporting the opposite party in the recently concluded election, attacked them between 10 and 11 p.m., and committed the offence.

5.The learned counsel appearing for the petitioners submitted that insofar as A2 is concerned, he attacked the deceased only with the backside of the knife which is the blunt part. A2 is said to have committed a simple injury on P.W.4, who is the injured witness. There is no specific overt act as against A9. A3 is the wife of A2. P.W.3 has deposed that at the time of occurrence, there was no electricity. D.W.2 who is the wife of A7 has deposed that he also suffered injuries. The said statement has also been supported by the evidence of D.W.1 Doctor. Therefore, there are several points to be urged in the appeal on merit. Though the earlier application was dismissed on 08.02.2019, more than five months have elapsed and some of the points have not been taken note of on the earlier occasion. Therefore, these petitions will have to be allowed.

6.The learned Additional Public Prosecutor appearing for the State would submit that there are sufficient injured witnesses available, of course, they spoke about the specific overt act attributed to the petitioners. Inasmuch the earlier application was dismissed on merit, these petitions will have to be dismissed.

7.The judgment has been rendered on 02.11.2018. From the said date onwards, all the petitioners are in incarceration. The evidence of P.W.3 is to the effect that there was no electricity at the time of occurrence. D.W.2 has also stated that A7 has also suffered injuries. The aforesaid statement is also supported by D.W.1 as against A2. He is said to have attacked using the blunt side of the knife. A3 is the lady being the wife of A2.

8. Considering the above coupled with the fact that there are valuable points available in the appeal, the substantive sentence of imprisonment alone is suspended on condition that each of 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 Judge, Chidambaram and on further condition that the petitioners shall stay at Villupuram and report before the Chief Judicial Magistrate, Villupuram on all working days at 10.30 a.m. until further orders.

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-sd/-
18/07/2019

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 II ADDITIONAL DISTRICT
AND SESSIONS JUDGE, CHIDAMBARAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM.

3 THE INSPECTOR OF POLICE
PUTHUR POLICE STATION,
KAATUMANARKOIL CIRCLE,
CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 C.C. to M/S.SATHIA CHANDRAN S. Advocate on payment of
necessary charges SR.NO.14800

+1 C.C. to M/S.R.SANKARASUBBU, Advocate on payment of necessary
charges SR.NO.14690

Order
in
CRL MP.8520 & 9181/2019
and
Cr1.A.No.815 & 832/2018

सत्यमेव जयते Date :18/07/2019

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