

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of November 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.9912 OF 2019

IN CRL.A.NO.383 OF 2019

P.KUPPURAJ

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE REP.BY ITS
THE INSPECTOR OF POLICE,
SHEVAPET POLICE STATION,
SALEM CITY.
CRIME NO.194 OF 2017

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.283 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the learned III Additional Sessions Judge, Salem in S.C.No.303 of 2017 dated 25.04.2019 and enlarge on bail pending disposal of the above CRL.A.NO.383 OF 2019 [IN CRL.MP.NO.9912 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.283 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.E.C.RAMESH, 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 A1 in S.C.No. 303 of 2017 on the file of III Additional Sessions Judge, Salem. The trial Court, by judgment dated 25.04.2019 convicted the petitioner for the offence punishable under Sections 294(b), 302, 506(ii) IPC and for the offence punishable under Section 294(b) IPC sentenced to undergo three months simple imprisonment, for the offence punishable under Section 302 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.1000/-, in default, to undergo three months rigorous imprisonment and for the offence punishable under Section 506(ii) IPC sentenced to undergo three years rigorous imprisonment and ordered the sentences to run concurrently. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the deceased borrowed Rs.15,000/- from the petitioner. On the fateful day, the deceased, P.Ws. 1 and 2 had liquor. The petitioner, A1, A2 were also drunk. Pursuant to the wordy quarrel, all the accused attacked the deceased and committed the offence.

2. The learned counsel appearing for the petitioner submitted that what is applicable to A3 will have to be made applicable to the petitioner also. A3 has been acquitted. A2 has not filed any appeal. The presence of P.W.1 is doubtful. Even P.W.1 is having four cases pending against him. He has not chosen to prove the occurrence. The petitioner has been under incarceration from 25.04.2019 onwards. Thus, the suspension of sentence will have to be granted to the petitioner.

3. The learned Additional Public Prosecutor appearing for the State would submit that there are eye witnesses to the case. There is specific overt act attributed against the petitioner. The trial Court, acquitted A3 on different grounds. Thus, this petition will have to be dismissed.

4. Admittedly, the petitioner has been under incarceration from 25.04.2019 onwards. Now, more than seven months has elapsed. We do find sufficient points available in the appeal. Even according to the prosecution, both the parties were drunk.

5. Considering the above and coupled with the period of incarceration, 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 III Additional Sessions Judge, Salem and on further condition that the petitioner shall stay at Trichy and report before the Town Police Station, Trichy daily at 5.30 p.m. until further orders.

-sd/-

27/11/2019

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 SESSIONS
JUDGE, SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
SHEVAPET POLICE STATION,
SALEM CITY.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
TRICHY.

+1C.C. to M/S.E.C.RAMESH Advocate on payment of necessary
charges SR NO.24494

Order

in
CRL MP.9912/2019
in
CRL A.383/2019

Date :27/11/2019

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MK:28/11/2019

सत्यमेव जयते

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