

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirteenth day of August 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.9294 of 2019

IN CRL.A.NO.429 OF 2019

MUNUSAMY

[PETITIONER]

Vs

STATE BY
THE INSPECTOR OF POLICE,
KOTTAKUPPAM POLICE STATION,
VILLUPURAM DISTRICT.
CR.NO.374/2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.429/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence in S.C.No.305/2016 passed by the Learned I Additional District and Session Judge, Tindivanam pending disposal of the Criminal Appeal, release the petitioner on bail.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.429/2019 on the file of the High Court and upon hearing the arguments of MR.K.SELVAKUMARSWAMI 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 is 63 years old Auditor, has been arrayed as A7 in S.C. No. 305 of 2016 on the file of the learned I Additional District and Sessions Judge, Tindivanam. The trial Court, convicted the petitioner for the offence punishable under Section 148 IPC and sentenced to undergo three years rigorous imprisonment; for the offence punishable under Section 449 IPC sentenced to undergo ten years rigorous imprisonment default and to pay a fine of Rs. 2,000/-, in default, to undergo simple imprisonment for two months; for the offence punishable under Section 302 r/w 149 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for a period of four months and ordered the sentences to run concurrently. Seeking suspension of sentence,

the present petition has been filed.

2. The learned counsel appearing for the petitioner would submit that there is no specific overt act attributed against the petitioner. Even as per the evidence of P.W. 1 and P.W. 2, the petitioner ran after the deceased and closed the door. Similarly, P.W.8 also speaks about the petitioner running after along with the others. He is also suffering from illness. In support of the aforesaid fact, the learned counsel has produced the letter dated 03.08.2019 sent by the Medical Officer, Central Prison Hospital, Cuddalore to the Superintendent of Prison indicating that the petitioner is a known case of Hypertensive/Coronary Artery Disease (CAD) X 12 years, Diabetic Mellitus X 1½ years having undergone Coronary Angiogram during the month of December, 2018 and therefore advised medical management. Thus, it is submitted that the sentence imposed will have to be suspended, as the petitioner stands on a different footing than the other accused.

3. The learned Additional Public Prosecutor appearing for the State would submit that there are totally six eye witnesses. Of the eye witnesses, P.W.2 and P.W.3 are the injured witnesses. The trial Court also found motive against all the accused. Therefore, this petition will have to be dismissed.

4. We do find considerable legal issues involved to be decided in the appeal. The status and age of the petitioner is not in dispute. The overt act attributed against the petitioner is that he ran after the deceased and closed the door.

5. Considering the above and coupled with the medical certificate produced, 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 District Munsif cum Judicial Magistrate, Vanur 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/-

13/08/2019

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, VANUR

2 THE CHIEF JUDICIAL MAGISTRATE
VILUPPURAM[FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE INSPECTOR OF POLICE,
KOTTAKUPPAM POLICE STATION,
VILLUPURAM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, TINDIVANAM

+2 C.C. to M/S.K.SELVAKUMARASWAMI Advocate on payment of
necessary charges SR.NO. 16806

Order

in
CRL MP.9294/2019

IN CRL.A.NO.429 OF 2019

Date :13/08/2019

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RD 13/08/2019

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