

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fifth day of September 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.9935 of 2019

in CRL.A.NO.455 OF 2019

KARTHICK RAJA

[PETITIONER/APPELLANT]

Vs

STATE REPRESENTED BY [RESPONDENT/RESPONDENT]
INSPECTOR OF POLICE,
D-4, KUNIYAMUTHUR POLICE STATION,
KUNIYAMUTHUR, COIMBATORE,
COIMBATORE DISTRICT.
CR.NO.39/2018.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.455 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in S.C.No.177/2018 passed by the learned I Additional District and Sessions Judge, Coimbatore by a judgment dated 07.01.2019 and enlarge the petitioner on bail pending disposal of the above Crl.A.NO.455 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.NO.455 of 2019 on the file of the High Court and upon hearing the arguments of M/S.BALASUBRAMANIAM K. 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 is the sole accused in S.C.No. 177 of 2018 on the file of learned I Additional District and Sessions Judge, Coimbatore. The trial Court by judgment dated 07.01.2019 convicted the petitioner under Section 302 IPC and sentenced to undergo life imprisonment and to pay of Rs.1000/-, in default to undergo three months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the overt act attributed against the petitioner is that he hit the deceased with wooden log. The deceased along with P.W.1 and P.W.2

came to the place of the petitioner. The deceased and P.Ws. 1 and 2 did not know the local language. They made inquiries with the petitioner to identify the hotel. Thereafter, the petitioner is stated to have made some demand of money. Pursuant to the same, the petitioner is stated to have attacked the deceased with wooden log on the head.

3. The learned counsel for the petitioner further submitted that there is no motive involved in this case. Admittedly, the deceased and P.W. 1 and P.W.2 hail from different State. Therefore, there must have been a prior quarrel between the parties. Even the overt act attributed is to the effect that the petitioner attacked the deceased with the wooden log. Therefore, there is no pre-meditation involved. It is also a single injury as opined by the Doctor in tune with the post-mortem certificate. Therefore, even assuming the case of the prosecution is true, the offence punishable under Section 302 IPC would not come. Thus, the suspension of sentence will have to be allowed.

4. The learned Additional Public Prosecutor appearing for the State would submit that there are two eye witnesses viz., P.W. 1 and P.W.2. The trial Court considered the evidence of P.Ws.1 and 2 and accordingly convicted the petitioner. Thus, the suspension of sentence will have to be dismissed.

5. We do find considerable issues involved to be decided in the appeal. The attack is with the wooden log and only one injury is the fatal one. We also find that there is contradiction with the material object viz., wooden log in the evidence adduced by the prosecution.

6. Considering the above coupled with the period of incarceration of the petitioner, we are of the view that there are various points involved to be adjudicated in the appeal. 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 Judicial Magistrate No.VII, Coimbatore 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/-
05/09/2019

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,
NO.VII, COIMBATORE.

2 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE.(FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
D-4, KUNIAMUTHUR POLICE STATION,
KUNIAMUTHUR, COIMBATORE,
COIMBATORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

6 I ADDITIONAL DISTRICT AND SESSIONS JUDGE,
COIMBATORE.

C.C. to M/S.BALASUBRAMANIAM K. Advocate on payment of
necessary charges Sr.18574

Order

in
CRL MP.9935/2019

in CRL.A.NO.455 OF 2019

Date :05/09/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

RVR 05/09/2019

WEB COPY