

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twentieth 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.10240 of 2019

in CRL.A.NO.525 OF 2018

1 NAGARAJ
2 JAI SHANKAR

[PETITIONER/APELLANTS]

Vs

STATE REP. BY
INSPECTOR OF POLICE,
B1 UTHAGAMANDALAM TOWN POLICE STATION,
UTHAGAMANDALAM, THE NILGIRIS DISTRICT.
(CR.NO.154 OF 2013)

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.525 OF 2018 on the file of the High Court, the High Court will be pleased to enlarge the petitioners on bail by suspending the sentence imposed in SC No.28/2015 dated 31.01.2018 on the file of Sessions Court of Magalir Neethimandram(FTMC), Uthagamandalam, (Nilgiris)pending disposal of C.A.No.525 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.525 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.MURUGANANTHAM T., Advocate for the petitioner and of M/S.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 petitioners have been arrayed as A1 and A2 in S.C.No. 28 of 2015 having been convicted for the major offence punishable under Section 302 IPC along with A3 and A4 on the file of Sessions Court of Magalir Neethimandram (FTMC), Uthagamandalam, Nilgiris. The trial Court, convicted the petitioners for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.3,000/- each, in default, to undergo simple imprisonment for three months.

2.The case of the prosecution is that the petitioners along with A3 and A4 attacked the deceased. A1 is stated to have attacked the deceased no.1 on the neck with his knife and A2 is stated to have attacked the deceased no.2 with the broken brandy bottle. A1 has used M.O.1 as against A2 - M.O.2. A3 and A4 are stated to have caught hold of the deceased while A1 and A2 attacked them. There are five eye witnesses, namely, P.W.1 to P.W.4 and P.W.6. P.W.1 to P.W.4 are related witnesses and P.W.6 is the independent witnesses. Considering the above, the trial Court convicted the petitioners. Challenging the same, pending appeal, this petition has been filed seeking suspension of sentence.

3.The learned counsel appearing for the petitioners would submit that the co-accused have been released pursuant to the suspension of sentence granted by this Court. Injuries were also sustained by both the petitioners. The petitioners suffered injuries as mentioned under Exs.P.19 and P.20. These injuries are not simple injuries. They have also been given treatment by the hospital and thereafter shifted to some other hospital for better treatment. The trial Court has not considered these aspects. As far as A2 is concerned, even as per the case of the prosecution, he took the broken brandy bottle available in the said place and attacked the deceased. The petitioners have been under incarceration for more than one and half year. Thus, considering the above, the sentence imposed on the petitioners will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State would submit that there are five eye witnesses available. Apart from the related witness, P.W.6 also spoken about the incident. The injuries suffered by the petitioners per se cannot be a ground to acquit them from the charges framed and as held by the trial Court. A3 and A4 stand on a different footing. The overt act attributed against them is different as against the petitioners. Therefore, this petition will have to be dismissed.

5. The dispute is said to have started over water sharing between the accused and the deceased. The petitioners have been under incarceration for more than one and half year. They have suffered injuries as seen from Exs.P.19 and P.20. They were also given treatment thereafter shifted to some other hospital. Thus, we do find considerable points available in the appeal.

6.Considering the above, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of the petitioners 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 learned Judicial Magistrate, Uthagamandalam and on further condition that the petitioners shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

20/08/2019

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 JUDICIAL MAGISTRATE, UTHAGAMANDALAM

2 THE CHIEF JUDICIAL MAGISTRATE
NILGIRIS (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
B1 UTHAGAMANDALAM TOWN POLICE STATION,
UTHAGAMANDALAM, THE NILGIRIS DISTRICT.

5 THE SESSIONS COURT OF
MAGALIR NEETHIMANDRAM (FTMC), UTHAGAMANDALAM,
NILGIRIS.

6 THE SUPERINTENDENT, CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S.MURUGANANTHAM T. Advocate on payment of
necessary charges Sr.17317

WEB COPY
Order
in
CRL MP.10240/2019

in CRL.A.NO.525 OF 2018

Date :20/08/2019

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RVR 20/08/2019

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