

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Thursday, the Twenty Ninth 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.10087 of 2019

in CRL.ANO.461 OF 2019

1 KRISHNAMOORTHY @ NARAYANASAMY [ PETITIONER ]  
2 ARUMUGAM  
3 PACHAMUTHU  
4 LAKSHMI

Vs

STATE REP. BY [ RESPONDENT ]  
INSPECTOR OF POLICE,  
KOTTAKUPPAM POLICE STATION,  
VILLUPURAM DISTRICT.  
(REF.CR.NO.374 OF 2013 DT 20.08.2013)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.461/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners/appellants in Sessions Case No.305/2016 on the file of the Honble Ist Additional District and Sessions Judge, Tindivanam, Villupuram Dt dt 04.07.2019 and release the petitioners/appellants on bail pending disposal of the above criminal appeal.[CRL.MP.NO.10087/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.461/2019 on the file of the High Court and upon hearing the arguments of M/S.L.VINOTH KUMAR Advocate for the petitioner and of MR. C.IYYAPPARAJ, ADDL. 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 are arrayed as A4, A5, A8 and A9 in S.C.No.305 of 2016 on the file of the I Additional District and Sessions Judge, Tindivanam. The trial Court by judgment dated 04.07.2019 convicted the petitioners for the offence punishable under Sections 324, 148, 323, 449 IPC, 302 r/w 149 IPC. For the offence under Section 324 IPC, A4 is sentenced to undergo one year simple imprisonment, for the offence under Section 148 IPC, the petitioners are sentenced to undergo three years rigorous imprisonment, for the offence under

Section 323 IPC, A5 is sentenced to undergo one year simple imprisonment and for the offence under Section 449 IPC, the petitioners are sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/- each, in default, to undergo two months simple imprisonment, for the offence under Section 302 r/w 149 IPC, A4, A5 and A8 are sentenced to undergo life imprisonment and to pay a fine of Rs.2000/- each, in default, to undergo four months simple imprisonment, and for the offence under Section 302 r/w 109 IPC and 149 IPC, A9 is sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/- in default to undergo four months simple imprisonment and ordered the sentences to run concurrently. Seeking suspension of sentence, the present petition has been filed.

2. Insofar as A4 and A5 viz., petitioners 1 and 2 are concerned, learned counsel appearing for the petitioners seeks permission to withdraw the petition and he has also made an endorsement to that effect. In view of the endorsement made by the learned counsel appearing for the petitioners, **this petition is dismissed as withdrawn in respect of petitioners 1 and 2/A4 and A5.**

3. The case of the prosecution is that in view of the prior dispute which resulted in filing of civil suit for specific performance over a property, a quarrel arose in a death ceremony between the accused and the deceased. Thereafter, A4 and A5 along with others attacked the deceased and committed the offence. Insofar as A8 is concerned, there is no specific overt act on the attack over the deceased or of the injured witnesses.

4. Insofar as A9 is concerned, who is the mother of A4, the case of the prosecution is that she has instigated A4 to commit the offence. Admittedly, she has also not attacked any one of the witnesses or the deceased.

5. Considering the above, we are inclined to consider the suspension of sentence insofar as A8 and A9 alone are concerned. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that petitioners 3 and 4 viz., A8 and A9 execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the I Additional District and Sessions Judge, Tindivanam, Villupuram and on further condition that petitioners 3 and 4 shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

29/08/2019

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 ADDITIONAL DISTRICT AND  
SESSIONS JUDGE, TINDIVANAM,  
VILLUPURM

2 THE CHIEF JUDICIAL MAGISTRATE  
VILLUPURAM[FOR INFORMATION]

3 THE SUPERINTENDENT,  
CENTRAL PRISON, CUDDALORE

4 THE SUPERINTENDENT,  
CENTRAL PRISON, WOMEN, VELLORE

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

6 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

7 THE I ADDITIONAL DISTRICT  
AND SESSIONS JUDGE, TINDIVANAM

+1 C.C. to M/S.L.VINOTH KUMAR Advocate on payment of necessary  
charges SR.NO. 18416

Order

in

CRL MP.10087/2019

in CRL.ANO.461 OF 2019

Date :29/08/2019

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RD 30/08/2019

TA 03/09/2019