

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.10540 of 2019

IN CRL.A.NO.481 of 2018

P.RAJENDRAN

[PETITIONER/APELLANT]

Vs

THE STATE BY
THE INSPECTOR OF POLICE,
PERUMANALLUR
POLICE STATION,
TIRUPPUR DISTRICT.
CR.NO.207 OF 2018.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence of imposed in the judgment dated 12.07.2019 made in S.C.No.03 of 2019 on the file of the learned Principal District and Sessions Judge, Tiruppur and enlarge the petitioner on bail pending disposal of the above Crl.A.No.481 of 2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.N.MANOCHARAN, 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 sole accused in S.C.No. 03 of 2019 on the file of Principal District and Sessions Judge, Tiruppur. The trial Court, by judgment dated 12.07.2019 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been

2. The case of the prosecution is that on 17.05.2018 there was a quarrel between the deceased and the petitioner with respect to a tumbler that was used for drinking. Both of them along with P.W.2 and two others who are not examined were having liquor. The issue was compromised later. On 18.05.2018, both the petitioner and the deceased were having liquor. Thereafter, they were seen together by P.Ws. 6 and 7. P.W.8 has seen the petitioner alone after the occurrence.

3. The learned counsel appearing for the petitioner submitted that it is a case of circumstantial evidence. Insofar as recovery is concerned, it only pertains to the vehicle of the petitioner, and therefore, the same will not help the case of the prosecution. The last scene theory has not been proved. There was no sufficient link to the chain of events. The petitioner has been under incarceration from 12.07.2019 onwards. Thus, the suspension of sentence will have to be granted to the petitioner.

4. The learned Additional Public Prosecutor appearing for the State would submit that the trial Court rightly relied upon the evidence of P.Ws. 6 to 8 in rendering conviction. Thus, this petition will have to be dismissed.

5. Though the trial Court has made reliance upon the evidence of P.Ws. 6 to 8, they have given deposition on 21.05.2018 for the occurrence said to have happened on 18.05.2018. Prima facie, we are of the view that the recovery per se will not help the case of the prosecution. The petitioner has been under incarceration from 12.07.2019 onwards. Admittedly, even according to the case of the prosecution, both the petitioner and the deceased were drunk.

6. 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 Judicial Magistrate No.4, Tiruppur and on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
TIRUPPUR.

2 THE JUDICIAL MAGISTRATE NO.4,
TIRUPPUR.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
PERUMANALLUR POLICE STATION,
TIRUPPUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S.N.MANOCHARAN Advocate on payment of necessary
charges SR.NO.24539

Order
in
CRL MP.10540/2019
in
CRL.A.NO.481/2019
Date :27/11/2019

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