

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirtieth 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.11107 of 2019

IN CRL.A.NO.217 OF 2019

MURUGAN

[PETITIONER]

Vs

STATE THROUGH
INSPECTOR OF POLICE,
CUDDALORE OLD TOWN POLICE STATION,
CUDDALORE.
CR.NO.515/2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.217/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of the petitioner/A2 dated 14.03.2019 passed in S.C.No.130/2016 on the file of the Mahila Court, Cuddalore and the petitioner/appellant who is remanded to judicial custody after judgment, be released on bail pending disposal of the above appeal NO.217/2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.217/2019 on the file of the High Court and upon hearing the arguments of M/S.V.LAKSHMANAN 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 petitioner has been arrayed as A2 and stands convicted for the offence under Section 147 IPC and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of three months, for the offence under Section 294(b) IPC, sentenced to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of 15 days, for the offence under Section 323 IPC (3 counts), sentenced to undergo simple imprisonment for a period of three months for each count and to pay a fine of Rs.500/- for each count, in default, to undergo simple imprisonment for a period of 15 days, for

the offence under Section 506(ii) IPC, sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of three months, for the offence under Section 302 r/w 149 IPC, sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5000/-, in default to undergo simple imprisonment for a period of two years. Seeking suspension of the above sentence of imprisonment imposed in S.C.No.130 of 2016 on the file of the Sessions Judge, Cuddalore, the petitioner has come forward with this petition.

2.The petitioner has been arrayed as A2. The case of the petitioner stands as that of the other accused viz., A3 to A5, whose sentences have been suspended by an order dated 26.06.2019. The order reads as under:-

The petitioners have been arrayed as A3 to A5 and they stand convicted for the offence under Section 147 IPC and sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of three months, for the offence under Section 294(b) IPC, sentenced to undergo simple imprisonment for a period of one month and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of 15 days, for the offence under Section 323 IPC (3 counts), sentenced to undergo simple imprisonment for a period of three months for each count and to pay a fine of Rs.500/- for each count, in default, to undergo simple imprisonment for a period of 15 days, for the offence under Section 506(ii) IPC, sentenced to undergo simple imprisonment for a period of two years and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of three months, for the offence under Section 302 r/w 149 IPC, sentenced to undergo rigorous imprisonment for life and to pay a fine of Rs.5000/-, in default to undergo simple imprisonment for a period of two years. Seeking suspension of the above sentence of imprisonment imposed in S.C.No.130 of 2016 on the file of the Sessions Judge, Cuddalore, the petitioners have come forward with this petition.

2. The case of the prosecution is that pursuant to the dispute that arose between the neighbours over the stagnation of water, all the petitioners joined together and attacked the deceased. The overt act attributed as against A1 is that he attacked the deceased with pipe. Insofar as the other petitioners are concerned, they attacked with bricks. Petitioners 1 and 2 are the sons of A2 and the third petitioner is the wife of A2. Petitioners 1 and 2 were the students who just completed the course.

3. The learned counsel appearing for the petitioners submitted that the overt act, even according to the

prosecution, is that the petitioners attacked with bricks. Though there are eye witnesses, there was a quarrel between the parties. The petitioners have got sufficient case for acquittal. They have been in incarceration from 14.03.2019 onwards and A6 has already been granted bail by this Court.

4.The learned Additional Public Prosecutor submitted that there are many eye witnesses for the occurrence and the Court below has considered the materials and convicted the accused.

5.Considering the overt act attributed against the petitioners and the fact that petitioners 1 and 2 have just completed the course and the third petitioner being the lady coupled with the fact that A6 has already been enlarged on bail, we are satisfied that there are arguable points in the appeal. In such view of the matter, we are inclined to suspend the sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended on condition each of the petitioners execute 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.II, Cuddalore and on further condition that the petitioners shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

3. As the petitioner stands on the same footing, we are inclined to suspend the sentence coupled with the period of incarceration of the petitioner. 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.II, Cuddalore 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/-

30/08/2019

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 SESSIONS JUDGE
CUDDALORE

2 THE JUDICIAL MAGISTRATE,
NO.II, CUDDALORE

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE[FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
CUDDALORE OLD TOWN POLICE STATION,
CUDDALORE.

5 THE SUPERINTENDENT,
CENTRAL PRISON,CUDDALORE

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.V.LAKSHMANAN Advocate on payment of necessary
charges SR.NO. 18284

Order

in
CRL MP.11107/2019

IN CRL.A.NO.217 OF 2019

Date :30/08/2019

From 7.2.2001 the Registry is issuing certified
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RD 30/08/2019

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