

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.11282 of 2019

IN CRL.A.NO.832/2018

1 OOSI @ SOUNDARAJAN
2 GANGAI AMARAN
3 KARTHIK

[PETITIONERS]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
PUTHUR POLICE STATION,
KATTUMANARKOIL CIRCLE
CUDDALORE DISTRICT
CR.NO.109 OF 2012.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.832/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in the judgment dated 02.11.2018 against the petitioners herein in SC No.154/2015, on the file of the II Additional District and Sessions Court, Chidambaram and release the petitioners herein on bail pending disposal in crl.A.NO.832/2018. [CRL.MP.NO.11282/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.832/2018 on the file of the High Court and upon hearing the arguments of M/S.SATHIA CHANDRAN R. Advocate for the petitioner and of MR.V.SARADHA DEVI Government Advocate 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, A4 and A5 in S.C.No. 154 of 2015 on the file of learned II Additional District and Sessions Court, Chidambaram. The trial Court by judgment dated 02.11.2018 convicted A1 for the offence punishable under Sections 148, 294(b), 324, 452, 427 and 302 r/w 109 IPC and for the offence under Section 148 IPC, sentenced to undergo six months rigorous imprisonment, for the offence under Section 294(b) IPC, to pay a fine

of Rs.500/- in default to undergo one month simple imprisonment, for the offence under Section 324 IPC, sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- in default to undergo three months simple imprisonment, for the offence under Section 452 IPC, sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo six months simple imprisonment, for the offence under Section 427 IPC, sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/- in default to undergo two months simple imprisonment, for the offence under Section 302 r/w 109 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.2000/- in default to undergo one year simple imprisonment.

2.The Trial Court convicted A4 and A5 for the offence punishable under Sections 148, 324, 452, 427 and 302 r/w 34 IPC and for the offence under Section 148 IPC, sentenced to undergo six months rigorous imprisonment, for the offence under Section 324 IPC, sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.500/- each in default to undergo three months simple imprisonment, for the offence under Section 452 IPC, sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1000/- each in default to undergo six months simple imprisonment, for the offence under Section 427 IPC, sentenced to undergo six months rigorous imprisonment and to pay a fine of Rs.500/- each in default to undergo two months simple imprisonment, for the offence under Section 302 r/w 34 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.2000/- each in default to undergo one year simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

3.The overt act attributed against the 1st petitioner/A1 is that he attacked one Chinnadurai with knife. However, no recovery has been made with respect to the said knife. The 2nd petitioner who has been arrayed as A4 also attacked Chinnadurai and caused injuries. Insofar as the 3rd petitioner/A5 is concerned, he is said to have attacked P.W.3 with sphere on the cheek and mouth. However, the Doctor, who has been examined as a witness, deposed that there is no stab injury but only contusion. In the light of the above, the learned counsel for the petitioner submitted that the suspension of sentence will have to be granted. The learned counsel also submitted that for similarly placed accused, this Court in CrI.M.P.No.11865 of 2019 in CrI.A.No.815 dated 18.07.2019 was pleased to suspend the sentence.

4.The learned Government Advocate (CrI. Side) appearing for the State would submit that there are eye witnesses to the case. The motive has been established in view of the election dispute. The trial Court considered these aspects and convicted the accused. Thus, this petition will have to be dismissed.

5.Admittedly, the co-accused have got their sentences suspended. The overt act attributed against the petitioners has been narrated above. As far as petitioners 1 and 2 are concerned, they attacked only Chinnadurai, who has not been examined, for the reasons known to the prosecution. Insofar as the third petitioner i.e., A5 is

concerned he only attacked P.W.3 with sphere. However, the evidence of eye witness is contrary to the evidence of Doctor who spoke about the injuries suffered. According to the Doctor, only contusion was found on P.W.3 as against stab injury.

6.Considering the above coupled with the period of incarceration of the petitioners, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of 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 II Additional District and Sessions Judge, Chidambaram 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/-
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 II ADDITIONAL DISTRICT AND
SESSIONS COURT, CHIDAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE[FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PUTHUR POLICE STATION,
KATTUMANARKOIL CIRCLE
CUDDALORE DISTRICT

+1 C.C. to M/S.SATHIA CHANDRAN R. Advocate on payment of
necessary charges SR.NO.18262

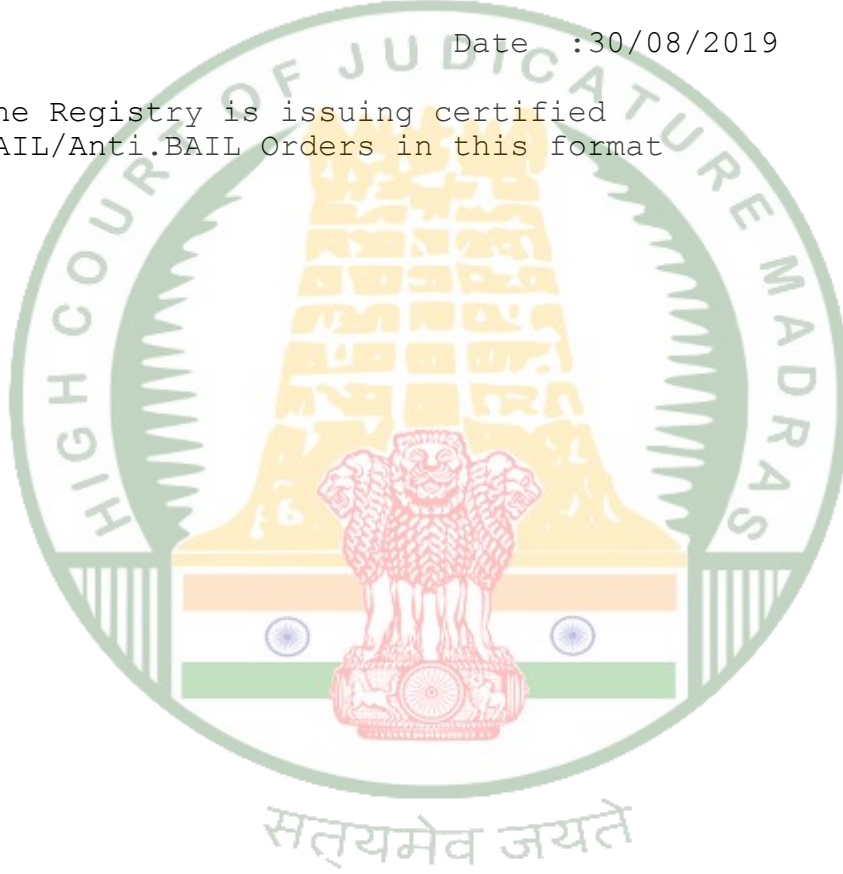
Order

in
CRL MP.11282/2019

IN CRL.A.NO.832/2018

Date :30/08/2019

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RD 30/08/2019



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