

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Third day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.12895 of 2019

IN CRL.A.No.588 of 2019

KARUNANITHI

[PETITIONER]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KEEZHAPAZHUR POLICE STATION,
ARIYALUR DISTRICT.
CR.NO.315 OF 2017.

[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 imposed on the petitioner/1st appellant in S.C.No.24 of 2018 on the file of the Additional District Judge, Ariyalur, by judgment and order dated 19.06.2019 and to release the petitioner/1st appellant on bail pending disposal of the Crl.A.No.588 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.C.PRABAKARAN, Advocate for the petitioners, and of MR. C. RAGHAVAN, Govt. Advocate (Crl. Side) on behalf of the Respondent, the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioners / A1 Accused seeking suspension of sentence of imprisonment, imposed by the judgment, dated, 19.06.2019, made in SC.No.24 of 2018, by the Additional District Judge, Ariyalur, pending disposal of the Criminal Appeal.
- 2.This court heard the learned counsel on either side and also perused the materials placed on record.
- 3.The allegations against the Petitioners/ accused are that in a quarrel about the conduct of the appellants by the deceased A1 and A2 had assaulted the deceased with a wooden log and the A3 with a stone on the nose of the deceased and the deceased succumbed to

injuries. In and by the impugned judgement, 1st Petitioner/ A-1 was found guilty and convicted for the offence under 304(ii) of IPC and 294 (b) of IPC and sentenced to undergo five years Rigours imprisonment and to pay a fine of Rs.30,000/- out of which Rs.25,000/- is to be paid as compensation and convicted for the offence 294(b) of IPC and sentenced to pay a fine of Rs.5,000/- and in default to undergo three months simple imprisonment and in respect of Petitioners /A-2 and A-3 convicted for the offence of 294(b) of IPC and sentenced to pay a fine of Rs.2000/- each with in default to undergo three months simple imprisonment. In view of the impugned judgement the petitioner /A1 was committed to prison from 19.06.2019 and the fine amount imposed by the trial court has been paid by all the accused persons.

4. The learned counsel for the appellants would submit that the 1st appellant and the deceased are brothers and that even as per the prosecution the incident had occurred during the quarrel and sudden fight and as there was no intention for the petitioner to cause the murder of his own brother. He would further submit that the learned trial Judge did not taken into consideration the contradiction between the witnesses. The learned counsel for the Petitioners/ accused would further submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioners/ accused has got a fair chance of succeeding in the Criminal Appeal and would pray that the substantive sentence imposed against the Petitioner/Accused-1 may be suspended. He would also submit that the petitioner was on bail during trial and that there is no problem between the families now. He would also submit that the fine amount has been paid before the trial Court.
5. The Respondent has filed a counter affidavit and the learned Government Advocate would submit that it is a case where the 1st appellant brutally had attacked the deceased with wooden log on the head and thrown stone on the nose resulting in his death. On the side of prosecution examined 16 witnesses and that they have clearly deposed about the incident and the assault by the petitioner/appellant.
6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/A-1 is ordered to be enlarged on bail, on the following conditions:-
 - i. The Petitioner/ accused shall 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 the Judicial Magistrate Court, Ariyalur.

The Petitioner//accused shall report before the trial court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
23/09/2019

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
JUDGE, ARIYALUR.

2 THE JUDICIAL MAGISTRATE,
ARIYALUR.

3 THE CHIEF JUDICIAL MAGISTRATE
ARIYALUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
KEEZHAPAZHUR POLICE STATION,
ARIYALUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 C.C. to M/S.C.PRABAKARAN Advocate on payment of necessary charges SR.NO.19826

WEB COPY

Order

in

CRL MP.12895/2019

in

CRL.A.No.588/2019

Date :23/09/2019

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