

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixteenth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.12882 of 2019

IN CRL.A.NO.586 of 2019

SUBRAMANI

[PETITIONER/APELLANT]

Vs

STATE REP BY
THE INSPECTOR OF POLICE,
SANKARAPURAM POLICE STATION,
VILLUPURAM DISTRICT.
(CR.NO.707/2012)

[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 passed in Special Case No.1/2015 dated 30.08.2019 on the file of the Special Judge (Principal Sessions Judge), Villupuram Sessions Division, Villupuram and enlarge the petitioner on bail pending disposal of the above Crl.A.586 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.A.SARAVANAN, Advocate for the petitioner, and of MR. M.MOHAMED RIYAZ, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

The Criminal Miscellaneous Petition has been filed by the Appellant/Accused, to suspend the sentence of imprisonment imposed in the judgment dated 30.08.2019 made in Special Case No.1/2015, on the file of the learned Special Judge, (Principal Sessions Judge), Villupuram Sessions Division, Villupuram , pending disposal of the appeal.

2 The Appellant/Accused was found guilty of the offences u/s. 304(ii) IPC and u/s. 135 of Electricity Act and he has been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	u/s.304(ii) IPC	5 years R.I
2.	U/S.135 of Electricity Act	2 years R.I

The sentences are ordered to run concurrently. Aggrieved against the same, the petitioner has preferred this appeal. Pending appeal, the petitioner has filed the present miscellaneous petition seeking suspension of sentence.

3 The case of the prosecution is that P.W.1 is the son of the deceased Munusamy and P.W.2 is the wife of the deceased Munusamy and that on 01.09.2012 at about 9.00 p.m., the said munusamy went to the land for watering sugarcane crops and did not return to home till next day at 8.00 a.m. and one Palani came to him and informed that his father died due to electric shock in a illegal electric fence of the Accused/Subramani. Based on the complaint, a case was registered by the police and after investigation the appellant was charged tried and committed for the offences as stated above.

4 The learned counsel for the Appellant/Accused would submit that the Trial Court erred in convicting the appellant/accused, when the prosecution has not proved the case beyond all reasonable doubts and that there are arguable points available in the appeal and that the petitioner has got a fair chance of succeeding in the appeal. He would submit that the petitioner is the only bread winner of the family and there is no one to support them and that the petitioner is now confined in the Central prison, Cuddalore.

5 The learned Additional Public Prosecutor would oppose, stating that the prosecution has let in evidence to prove that the petitioner/accused was in possession of the property and that he had illegally electrified the fence. The evidence of Electricity Board officials and the Village Administrative officer is clear and categoric about the installation of illegal electric fence in Survey Nos.229/1H and 229/1, which belonged to the accused and as per the evidence of P.W.4, it is only the accused, who put up the electric fencing.

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/ accused is ordered to be enlarged on bail, on the following conditions:-

i. The Petitioner/ accused shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sankarapuram.

ii. The Petitioner//accused shall report before the Trial

month at 10.30 a.m., until further orders.

-sd/-
16/09/2019

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 SPECIAL JUDGE
(PRINCIPAL SESSIONS JUDGE) VILLUPURAM
SESSIONS DIVISION, VILLUPURAM.

2 THE JUDICIAL MAGISTRATE,
SANKARAPURAM.

3 THE CHIEF JUDICIAL MAGISTRATE,
VILLUPURAM. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
SANKARAPURAM POLICE STATION,
VILLUPURAM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

+1 C.C. to M/S.A.SARAVANAN Advocate on payment of necessary
charges SR.NO.19288

Order

in
CRL MP.12882/2019
in
CRL.A.586/2019

Date :16/09/2019

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TA-20/09/2019