

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eleventh 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.13827 of 2019

in CRL.A NO.554 OF 2019

NARESH

[PETITIONER/APELLANT]

Vs

STATE BY

[RESPONDENT]

INSPECTOR OF POLICE,
RANIPET POLICE STATION,
VELLORE DISTRICT, (CRIME NO.146 OF 2013).

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.554 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner herein by the learned II Additional District and Sessions Judge, Ranipet, Vellore District made in S.C.No.146 of 2014 by judgment dated 08.08.2019 and enlarge him on bail, pending disposal of the above Crl.A.No.554 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.554 of 2019 on the file of the High Court and upon hearing the arguments of M/S GOPINATH, SENIOR COUNSEL FOR M/S. L.MAHENDRAN, 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. 146 of 2014 on the file of II Additional District and Sessions Judge, Ranipet, Vellore. The trial Court, by judgment dated 08.08.2019 convicted the petitioner for the offence punishable under Sections 294(b), 324, 302 IPC and for the offence punishable under Section 294 (b) IPC, imposed 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 for the offence under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months rigorous imprisonment and ordered to run the sentences concurrently. Seeking suspension of sentence imposed, the present petition has been

2. The case of the prosecution is that the deceased and the petitioner were dancing in a drunken mood in a procession in which the presiding deity was taken through the road. As both of them dashed against each other, a wordy quarrel arose. Thereafter, the petitioner attacked the deceased with the material object and committed the offence.

3. The learned Senior Counsel appearing for the petitioner submitted that even assuming the occurrence is true, the offence under Section 302 IPC cannot be made out. During the procession, police personnel were present including the Inspector of Police and the Sub-Inspector of Police. There is also a delay in lodging the FIR. The police station is situated within 1.5 kms. The occurrence happened at about 5.00 p.m. but the complaint was given at 11.00 p.m. It is not the case of the prosecution that the petitioner was carrying the weapon. Therefore, the sentence imposed will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State submitted that the evidence of P.W.1 would clearly show that the deceased died of stab injuries. There are eye witnesses available - P.Ws. 1 to 6. The trial Court, considered these aspects while rendering conviction. Thus, this petition will have to be dismissed.

5. Even according to the case of the prosecution, both the petitioner and the deceased were drunk. They were also dancing. Therefore, it may be a case of sudden provocation. The police personnel were also present at the place of occurrence. Thus, we do find the existence of sufficient grounds to be agitated in the appeal.

6. Considering the above coupled with the period of incarceration of the petitioner, 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 the Judicial Magistrate, Ranipet, Vellore and on further condition that the petitioner shall stay at Hosur and report before the Town Police Station, Hosur every day at 10.30 a.m. until further orders.

-sd/-

11/11/2019

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 JUDICIAL MAGISTRATE,
RANIPET, VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
RANIPET POLICE STATION,
VELLORE DISTRICT.

5 II ADDITIONAL DISTRICT AND
SESSIONS JUDGE, RANIPET, VELLORE.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

7 THE OFFICER INCHARGE,
TOWN POLICE STATION, HOSUR.

C.C. to M/S. L.MAHENDRAN Advocate on payment of necessary
charges SR.23100

Order

in
CRL MP.13827/2019

in CRL.A NO.554 OF 2019

Date :11/11/2019

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RVR 11/11/2019