

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventeenth day of September Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NO.13348 OF 2019

IN CRL.A.NO.619 OF 2019

1 BASHEER AHMED
2 HITHAYATHULLA

[PETITIONERS / APPELLANTS]

Vs

STATE REP.BY
INSPECTOR OF POLICE,
PUDUCHATRAM POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.68 OF 2009.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.619 OF 2019 on the file of the High Court, the High Court will be pleased to release the petitioners on bail by suspending the sentence imposed in S.C.No.113/2010 on the file of the Principal Sessions Judge, Namakkal dated 19.08.2019 pending the above CRL.A.NO.619 OF 2019 [IN CRL.MP.NO.13348 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.619 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.M.NATARAJ VALLATHARASU, 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 Appellants/A1 and A2, to suspend the sentence of imprisonment imposed in the judgment dated 19.08.2019 made in Special Case No.113/2010, on the file of the learned Principal sessions Judge, Namakkal, pending disposal of the appeal.

2 The Appellant/A1 and A2 have found guilty of the offences u/s. 434 IPC and Section 3(ii) of TNPPDL Act and they had been convicted and sentenced as under:

S.N o.	Conviction	Sentence
1.	U/s. 434 of IPC	1 year R.I each and fine of Rs.1,000/- each in default to undergo S.I for 3 months.

S.N o.	Conviction	Sentence
2.	U/s.3(ii) of TNPPDL Act	3 years R.I each and fine of Rs.4,000/- each in default to undergo S.I for 9 months for each of the substantive offences.

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

3 The case of the prosecution is that it is alleged in Tirumalaipatti, Thevvaipatti Village, in between S.No.461/5B and 460 Odai Poramboke and cart track were measured by the Revenue Inspector to demarcate the same and survey stones were planted demarcating odai poramboke and cart track and on 12.02.2009, the Appellant/A1 and A2, at about 10.00 p.m., destroyed the odai and also removed the survey stones landmark fixed by the public authorities, namely the Revenue Inspector and the accused committed mischief and caused damages to the tune of Rs.4,000/- and thereby, committed the above said offences and the petitioner was tried and convicted as stated above.

4 The learned counsel for the Appellant/A1 and A2 would submit that there are arguable points available in the appeal and that the petitioners have got a fair chance of succeeding in the appeal. He would further submit that the A1 is the breadwinner of the family and the A2 is a sick person and not able to move freely and that the petitioners were on bail during trial and after conviction, the Trial Court had temporarily suspended the sentence till 18.09.2019 and would submit that they have not misused the granted liberty and would pray that the substantive sentence imposed against the petitioners may be suspended and would also submit that the fine amount has been paid.

5 The learned Additional Public Prosecutor has raised objections for suspending the sentence.

6 Taking into consideration, the submissions made by the learned counsels, the substantive sentence of imprisonment alone is suspended.

7 Hence, the sentences of imprisonment imposed on the Appellant/A1 and A2 the trial Court alone is hereby suspended till the disposal of the appeal and the Appellant/A1 and A2 is ordered to be enlarged on bail on his executing a bond for Rs.50,000/- [Rupees Fifty thousand only] each with two sureties each for a like sum to the satisfaction of the Judicial Magistrate Court No.II, Namakkal and on further condition that the Appellant/A1 and A2 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/-
17/09/2019

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 JUDICIAL MAGISTRATE COURT
NO.II, NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE PRINCIPAL SESSIONS JUDGE,
NAMAKKAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PUDUCHATRAM POLICE STATION,
NAMAKKAL DISTRICT.

+1C.C. to M/S.M.NATARAJ VALLATHARASU Advocate on payment of
necessary charges SR NO.19338

Order

in
CRL MP.13348/2019
in
CRL.A.619/2019

Date :17/09/2019

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