

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the First 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.13917 OF 2019

IN CRL.A.NO.655 OF 2019

VINOTH @ KUDIARASU [PETITIONER / APPELLANT / SOLE ACCUSED]

Vs

STATE REP. BY [RESPONDENT]
THE INSPECTOR OF POLICE,
E-3, MINJUR POLICE STATION,
MINJUR,
THIRUVALLUR DISTRICT
CRIME NO.392 OF 2017

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.655 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the execution of the conviction and sentence imposed against the petitioner / appellant / accused in S.C.No.11 of 2018 dated 27.04.2019 by the learned Principal District & Sessions Judge, Thiruvallur and enlarge him on bail pending disposal of the above CRL.A.NO.655 OF 2019 [IN CRL.MP.NO.13917 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.655 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.M.JAGAN, 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. 11 of 2018 on the file of Principal Sessions Judge, Tiruvallur. The trial Court, by judgment dated 27.04.2019 convicted the petitioner for the offence punishable under Sections 294(b), 341 and 302 IPC and for the offence punishable under Section 294(b) IPC, sentenced him to undergo one month simple imprisonment and for the offence punishable under Section 341 IPC, sentenced him to undergo one month simple imprisonment and for the offence under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months

rigorous imprisonment and ordered the sentences to run concurrently. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that there was a dispute between the petitioner and the deceased as the petitioner felt that the deceased was responsible for breaking the fence put up by him. On the date of occurrence, the deceased was passing through the house of the petitioner which resulted in a quarrel between them. Thereafter, the petitioner took up M.O.1 - wooden log and hit him on the back side of the head.

3. The learned counsel appearing for the petitioner would submit that even assuming the case of the prosecution is true, the offence under Section 302 IPC would not get attracted. The petitioner is also entitled for the benefit by applying the exemption provided under Section 300 IPC. The trial Court has not considered this aspect. The petitioner has been under incarceration for more than two years. Therefore, the sentence imposed will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State would submit that the trial Court considered the evidence namely, 12 witnesses who have been examined apart from 12 documents marked. This coupled with the recovery would disentitle the petitioner from getting the suspension of sentence and therefore, this petition will have to be dismissed.

5. Even as per the case of the prosecution, the petitioner attacked the deceased with wooden log which is lying there. There is no pre-meditation involved. Thus, we are inclined to suspend the sentence especially when he has been under incarceration for more than two years.

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 No.II, Ponneri and on further condition that the petitioner shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-
01/11/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

TO

1 THE PRINCIPAL DISTRICT &
SESSIONS JUDGE, THIRUVALLUR.

2 THE JUDICIAL MAGISTRATE,
NO.II, PONNERI.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
E-3, MINJUR POLICE STATION,
MINJUR, THIRUVALLUR DISTRICT.

+1C.C. to K.SARATH KUMAR Advocate on payment of necessary
charges SR NO.22513

Order
in
CRL MP.13917/2019
in
CRL.A.NO.655/2019
Date :01/11/2019

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MK:04/11/2019

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