

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.13747 of 2019

in CRL.A.NO.647 OF 2019

1 RAMANI [PETITIONERS/ACCUSED]
2 SANTHOSH @ HARIKRISHNAN
3 ARUNKUMAR
4 THULASIRAMAN

Vs

THE STATE OF TAMIL NADU, [RESPONDENT]
THE INSPECTOR OF POLICE,
VEPPANKUPPAM POLICE STATION,
VELLORE DISTRICT
CR.NO.311 OF 2012.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.NO.647 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the petitioners by the Learned I Additional District and Sessions Judge, Vellore made in S.C.No.137 of 2013 by a Judgment dated 31.07.2019 and release them on bail pending disposal of the Crl.A.NO.647 of 2019.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.NO.647 of 2019 on the file of the High Court and upon hearing the arguments of M/S.M.R.THANGAVEL, 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 petitioners have been arrayed as A3 to A6 in S.C.No. 137 of 2013 on the file of I Additional District and Session Judge, Vellore, Vellore District. The trial Court, by judgment dated 31.07.2019 convicted the petitioners namely A3 for the offence under Sections 147, 342 r/w 149 and 302 r/w 149 IPC, A4 for the offence under Sections 147, 324, 342 and 302 r/w 149 IPC, A5 for the offence under Sections 147, 324, 342 and 302 r/w 149 IPC and A6 for the offence under Sections 147, 342 r/w 149 IPC and 302 r/w 149 IPC.

2.A3 is sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo two months rigorous imprisonment for the offence under Section 147 IPC, sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two months rigorous imprisonment for the offence under Section 342 r/w 149 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- in default to undergo three months rigorous imprisonment for the offence under Section 302 r/w 149 IPC.

3.A4 is sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo two months rigorous imprisonment for the offence under Section 147 IPC, sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two months rigorous imprisonment for the offence under Section 324 IPC, sentenced to undergo life one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, two months rigorous imprisonment for the offence under Section 342 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months rigorous imprisonment for the offence under Section 302 r/w 149 IPC.

4.A5 and A6 are sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo two months rigorous imprisonment for the offence under Section 147 IPC, sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two months rigorous imprisonment for the offence under Section 342 r/w 149 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/- in default, to undergo three months rigorous imprisonment for the offence under Section 302 r/w 149 IPC and ordered the sentences to run concurrently. Seeking suspension of sentence imposed, the present petition has been filed.

5.The case of the prosecution is that A3 and the deceased were neighbours. There was a dispute over the pathway which is a poramboke one. As A3 and her family members started claiming exclusive right over the same, it was objected to by the deceased. Thereafter, all the accused joined together and attacked the deceased in the presence of P.Ws. 1,2,4 and 5.

6.The overt act attributed against the accused is that A1 attacked the deceased with crowbar. Some of the petitioners attacked the deceased with sticks and thereafter caught hold of him.

7. The learned counsel appearing for the petitioners would submit that except the evidence of P.W.1, there is no other eye witness to implicate the petitioners. Even P.W.1 has stated that the petitioners attacked the deceased with sticks which version is not supported by the other witnesses. Therefore, the sentence imposed will have to be suspended.

8. The learned Additional Public Prosecutor appearing for the State would submit that the motive has been clearly established. The petitioners have been charged for the offence punishable under Section 149 IPC. This provision being a rule of evidence, the offence attributed against A1 would get attracted to them as well. Thus, this petition will have to be dismissed.

9. We have perused the judgment of the trial Court and the evidence of P.Ws.1, 2,4 and 5. As stated by the learned counsel for the petitioner, P.Ws. 2,4 and 5 have not supported the case of P.W.1 with respect to the presence of the petitioners and the specific overt act attributed against them. Thus, we are of the view that there are sufficient points available in the appeal to be considered.

10. We are dealing with the case where the entire family and close relatives have been charged including the sons of A3. A3 is a lady. We are conscious of the fact that the whenever Section 149 IPC has been invoked, Courts will have to adopt more caution. The common object is something which has to be seen on the complete analysis of the facts governing especially when there lies a specific overt act against one of the accused.

11. Considering the above coupled with the period of incarceration of the petitioners, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of the petitioners 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.III, Vellore 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

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.III, VELLORE

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VEPPANKUPPAM POLICE STATION,
VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

6 I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, VELLORE,
VELLORE DISTRICT.

C.C. to M/S.M.R.THANGAVEL Advocate on payment of necessary
charges SR.NO.22433

Order

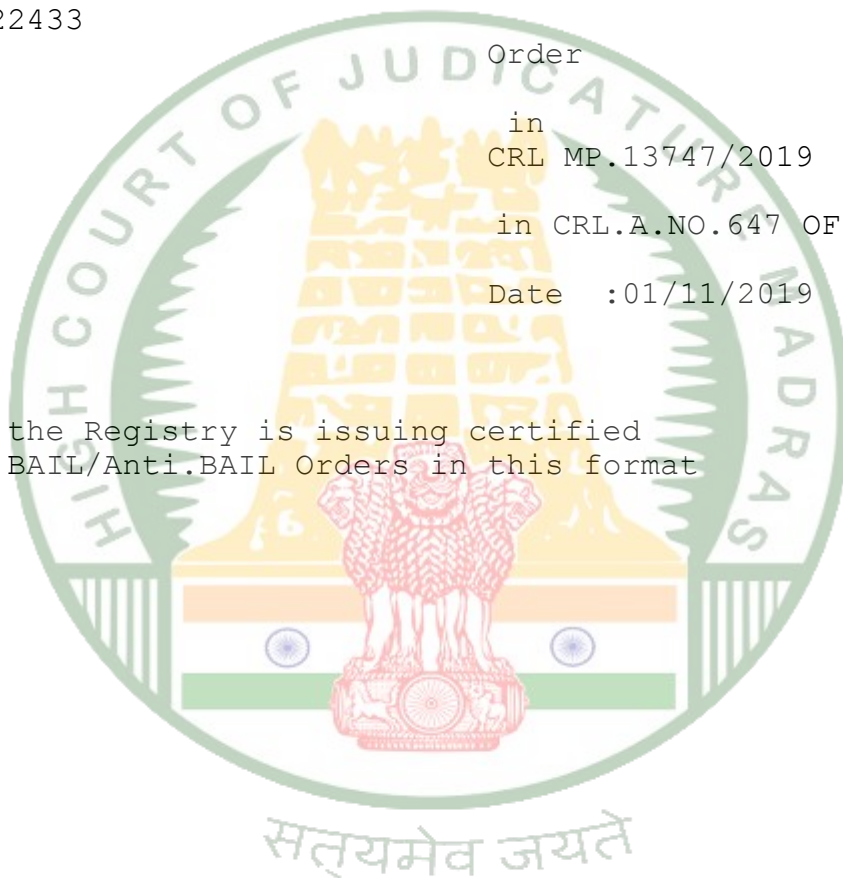
in
CRL MP.13747/2019

in CRL.A.NO.647 OF 2019

Date :01/11/2019

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RVR 04/11/2019



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