

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Third day of October 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.14872 & 13492 of 2019

IN CRL A.747 & 709 /2018

STEPHAN @ DEEBANRAJ

[PETITIONER
IN CRL.MP.NO.14872/2019]

MANIKANDAN

[PETITIONER
IN CRL.MP.NO.13492/2019]

Vs

THE STATE BY
THE INSPECTOR OF POLICE
VEERANAM POLICE STATION,
SALEM CITY
CRIME NO.176 OF 2015

[RESPONDENT
IN BOTH THE PETITIONS]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal Nos.747 & 709/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the Judgment dated 03.10.2018 passed in SC No.54/2016 on the file of II Additional District and Sessions Judge, Salem and enlarge the petitioner on bail pending disposal of the above Crl.A.Nos.747 & 709 /2018. [CRL.MP.NOS.14872 & 13492/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal Nos.747 & 709/2018 on the file of the High Court and upon hearing the arguments of M/S.R.NALLIYAPPAN, Advocate for the petitioner [IN CRL.MP.NO.13492/2019] and of M/S.R.NALLIYAPPAN Advocate [IN CRL.MP.NO.14872/2019] and of MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR [IN BOTH THE PETITIONS] 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 A2 and A3 respectively along with A1 & A2 in S.C.No.54 of 2016 on the file of II Additional District and Sessions Judge, Salem. The trial Court, by judgment dated 03.10.2018, convicted the petitioners and for the offence

punishable under Sections 449 IPC sentenced them to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo one year simple imprisonment and for the offence under Section 302 IPC, sentenced them to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one year rigorous imprisonment. Seeking to suspend the sentence awarded by the trial Court, the present petitions have been filed.

2. The learned counsel appearing for the petitioners would submit that for the main accused viz., A1 and A2, this Court has granted suspension of sentence. Reliance has been made on the order passed in Crl.M.P.No.16869 of 2018 in Crl.A.No.653 of 2018, dated 01.02.2019 and Crl.M.P.No.10602 of 2019 in Crl.A.No.155 of 2019, dated 23.09.2019.

3. The learned Additional Public Prosecutor appearing for the State is not in a position to dispute the aforesaid factum. If at all, the petitioners are to be compared with A1 & A2, the attribution against them would be much more. This Court in the order dated 23.09.2019, was pleased to pass the following order:

'5. 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.IV, Salem 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.'

4. In the light of the above, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the petitioners shall execute a separate 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.IV, Salem and on further condition that the petitioners shall appear before the concerned Court on the first working day of every month at 10.00 a.m., pending appeal.

-sd/-

23/10/2019

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 II ADDITIONAL DISTRICT
AND SESSIONS JUDGE, SALEM

2 THE JUDICIAL MAGISTRATE,
NO.IV, SALEM

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

4 THE INSPECTOR OF POLICE,
VEERANAM POLICE STATION,
SALEM CITY

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.R.NALLIYAPPAN Advocate on payment of necessary
charges SR.NO. 21833

+1 C.C. to DR.S.MANOCHARAN Advocate on payment of necessary
charges SR.NO. 21829

Order

in

CRL MP.14872 & 13492/2019

in

CRL A.747 & 709/2018

Date :23/10/2019

From 7.2.2001 the Registry is issuing certified
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RD 24/10/2019