

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Eighth 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.14824 OF 2019

IN CRL.A.NO.711 OF 2019

1 RAJENDRAN
2 JEYAKUMAR

[ACCUSED / APPELLANTS / PETITIONERS]

Vs

STATE REP.BY [RESPONDENT]
DEPUTY SUPERINTENDENT OF POLICE,
GINGEE DIVISION,
VILLUPURAM DISTRICT,
REPRESENTING SATHIYAMANGALAM POLICE STATION,
SATTHIYAMANGALAM.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.711 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon them by the Special Sessions Judge, SC/ST Act Cases, Villupuram in Special S.C.No.73 of 2016 dated 16.09.2019 and enlarge them on bail pending disposal of the main CRL.A.NO.711 OF 2019 [IN CRL.MP.NO.14824 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.711 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.S.UDAYA KUMAR, 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 A.1 and A.2 in S.C.No.73 of 2016 on the file of the learned Special Sessions Judge, S.C./S.T., Act Cases, Villupuram. The trial Court, by judgment dated 16.09.2019 convicted the petitioners for the offence punishable under Sections 304(ii) IPC and under Section 3(2) (v) of SC/ST (POA) Amendment Act, 2015 and sentenced them to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1000/- each, in default, to undergo three months Simple Imprisonment for the offence under Section 304(ii) IPC; and also sentenced them to

undergo Life Imprisonment and to pay a fine of Rs.1000/-, in default, to undergo three months Simple Imprisonment for the offence under Section 3(2) (v) of SC/ST (POA) Amendment Act, 2015. The petitioners were also directed to pay a sum of Rs.50,000/- each as compensation to the de facto complainant, in default, to undergo six months Simple Imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the petitioners unauthorisedly laid the electric wire which caused the death of the deceased. The deceased belongs to Schedule Caste Community.

3. The Trial Court, after finding that the electric line was gone unauthorisedly, convicted the petitioners for the offences under Sections 304(ii) IPC and under Section 3(2) (v) of SC/ST (POA) Amendment Act, 2015 and sentenced them as already stated above. The trial Court also directed the accused 1 and 2/petitioners to pay a sum of Rs.50,000/- to the de facto complainant towards compensation.

4. In accordance with the provisions of the Schedule Caste and Schedule Tribe (POA) Amendment Act, 2015, notices were issued to the victims, who were also present before this Court today and represented by counsel.

5. The learned Senior Counsel for the petitioners submitted that the trial Court has not considered the evidence in proper perspective. In any case, the provisions of the Schedule Caste and Schedule Tribe (POA) Amendment Act, 2015, will not apply. Therefore, the suspension of sentence will have to be granted to the petitioners.

6. The learned Additional Public Prosecutor appearing for the State submitted that electric wire was gone unauthorisedly. The trial Court, considered the materials available and rendered the conviction and sentenced them as already stated above. Thus, this petition will have to be dismissed.

7. Considering the submissions made on both sides, we are of the view that there are sufficient points available in this appeal. However, taking note of the fact that the de facto complainant/victim before us has got unmarried daughter apart from having two other children, we direct the petitioners to pay part of the compensation amount i.e., Rs.25,000/- each [In total, Rs.50,000/-] out of Rs.50,000/- each [In total Rs.1,00,000/-] ordered by the trial Court to the de facto complainant directly.

8. Learned Senior Counsel for the petitioners fairly submitted that notwithstanding the final adjudication in the appeal, the aforesaid amount to be paid will not be sought back from the victim. The aforesaid statement has been recorded. Further, the learned Senior Counsel for the petitioners sought for four weeks time for making the payment. Accordingly, we are inclined to grant four weeks time from the date of receipt of a copy of this order for making the payment as aforesaid.

9. Considering the above, we are inclined to suspend the sentence imposed on the petitioners. Accordingly, the substantive sentence of imprisonment alone is suspended pending appeal subject to the following conditions:-

[i] Each of the petitioners shall execute 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, Gingee;

[ii] Each of the petitioners shall pay a sum of Rs.25,000/- [In total, Rs.50,000/-] to the de facto complainant directly, within a period of four weeks from the date of receipt of a copy of this order; and on further condition that

[iii] the petitioners shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
28/11/2019

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

सत्यमेव जयते
TRUE COPY

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

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TO

1 THE JUDICIAL MAGISTRATE,
GINGEE.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE SPECIAL SESSIONS JUDGE,
S.C./S.T., ACT CASES, VILLUPURAM.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE DEPUTY SUPERINTENDENT OF POLICE,
GINGEE DIVISION,
VILLUPURAM DISTRICT,
REPRESENTING SATHIYAMANGALAM POLICE STATION,
SATTHIYAMANGALAM.

+3C.C. to M/S.S.UDAYA KUMAR Advocate on payment of necessary
charges SR NO.24631

Order

in
CRL MP.14824/2019

in
CRL A.711/2019

Date :28/11/2019

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MK:29/11/2019

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