

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Twenty Sixth 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.15601 OF 2019

IN CRL.A.NO.738 OF 2019

MURUGAN

[APPELLANT / ACCUSED-2 (IN JAIL)]

Vs

THE STATE, REP. BY [RESPONDENT]
INSPECTOR OF POLICE,
KONDALAMPATTY POLICE STATION,
SALEM DISTRICT
(CRIME NO.1133/2009).

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.738 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by judgment dated 30.07.2019 in S.C.No.179 of 2016 on the file of the III Additional District Judge, Salem and enlarge the petitioner on bail, pending disposal of the CRL.A.NO.738 OF 2019 [IN CRL.MP.NO.15601 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.738 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.B.VASUDEVAN 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 A3 in S.C.No. 179 of 2016 on the file of III Additional District Judge, Salem. The trial Court, by judgment dated 30.07.2019 convicted the petitioner for the offence punishable under Section 201 r/w 302 IPC and sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo two months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that A1 was having relationship with the deceased, who was a widow. She she was insisting for marriage, A1 has decided to finish her off. Accordingly, he strangulated and killed her. A2 and A3 helped A1 to screen the body.

3. The learned counsel appearing for the petitioner submitted that P.Ws. 5 and 6 who have stated to have seen A1 and A3 together carrying the deceased covered in a gunny bag turned hostile. Therefore, the conviction of the trial Court cannot be sustained in the eye of law. Thus, the suspension of sentence will have to be granted to the petitioner.

4. The learned Additional Public Prosecutor appearing for the State submitted that the trial Court considered the relevant materials and rendered conviction. Thus, this petition will have to be dismissed.

5. The petitioner has been under incarceration for five years. It is A1 who is the main accused convicted for life. The case of the prosecution itself is to the effect that after committing the murder, A1 sought the help of the petitioner. We could see that P.Ws. 5 and 6 have already turned hostile.

6. Considering the above coupled with the period of incarceration, 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 for a like sum to the satisfaction of the Judicial Magistrate No.V, Salem on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

सत्यमेव जयते
-sd/-
26/11/2019

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 III ADDITIONAL DISTRICT
JUDGE, SALEM.

2 THE JUDICIAL MAGISTRATE,
NO.V, SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KONDALAMPATTY POLICE STATION,
SALEM DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1C.C. to SUMITHRA VASUDEVAN Advocate on payment of
necessary charges SR NO.24335

Order

in
CRL MP.15601/2019
in
CRL A.738/2019

Date :26/11/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MK:29/11/2019

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