

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirtieth 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.15178 of 2019

IN CRL.A.NO.728 OF 2018

PATHAN @ PADHMANABAN

[PETITIONER]

Vs

STATE REP. BY ITS
THE INSPECTOR OF POLICE,
UDUMALPET POLICE STATION,
TIRUPPUR DISTRICT.
CR.NO.571 OF 2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.728/2018 on the file of the High Court, the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed in SC No.67/2016 dated 26.09.2018 on the file of III Additional District and Sessions Court, Tiruppur at Dharapuram pending disposal of C.A.No.728/2018.[CRL.MP.NO.15178/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.728/2018 on the file of the High Court and upon hearing the arguments of M/S. L. SRILEKA, Advocate for the petitioner and of MR.K.PRABAKAR ADDL. 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. 67 of 2016 on the file of III Additional District and Session Judge, Tiruppur at Dharapuram. The trial Court, by judgment dated 26.09.2018 convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.2,000/-, 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 petitioner and the deceased were friends. They were working in the market. There was a quarrel between them as both were accusing fidelity of their

respective spouses. The overt act attributed against the petitioner is that he attacked the deceased by throwing stone which hit him on the head.

3. The learned counsel appearing for the petitioner would submit that even assuming the aforesaid facts are true, the offence under Section 302 IPC would not get attracted. The petitioner has been under incarceration for more than a year. Hence, the sentence imposed will have to be suspended.

4. The learned Additional Public Prosecutor appearing for the State would submit that there are eye witness available. The petitioner attacked the deceased with a stone pursuant to wordy quarrel. The trial Court, considered this aspect and convicted the petitioner. Thus, this petition will have to be dismissed.

5. We find grounds worth consideration in the appeal. As rightly submitted by the learned counsel appearing for the petitioner, even assuming the case of the prosecution with respect to the occurrence is true, the larger question for consideration is as to whether the case would attract Section 302 IPC or Section 299 IPC warranting resultant punishment.

6. The petitioner has been under incarceration for more than one year. We also find that the overt act attributed against the petitioner is that he attacked the deceased with stone which was available on the spot. The medical report also would suggest the existence of alcohol in the body of the deceased.

7. 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.1, Udumalpet 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/-

30/10/2019

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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.I, UDUMALPET

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR[FOR INFORMATION]

3 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE,TIRUPPUR AT
DHARAPURAM

4 THE SUPERINTENDENT,
CENTRAL PRISON,COIMBATORE

5 THE INSPECTOR OF POLICE,
UDUMALPET POLICE STATION,
TIRUPPUR DISTRICT.

+1 C.C. to M/S.L.SRILEKA Advocate on payment of necessary
charges SR.NO. 22275

Order

in
CRL MP.15178/2019

IN CRL.A.NO.728 OF 2018

Date :30/10/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 30/10/2019

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