

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Eighteenth 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.16508 of 2019

IN CRL.A.NO.509 OF 2019

SHANKAR

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE OF TAMILNADU REP.BY [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.509 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed upon the petitioner by the learned I Additional District & Sessions Judge, Vellore made in S.C.No.137 of 2013 by a Judgment dated 31.07.2019 and release him on bail pending disposal of CRL.A.No.509/2019. [IN CRL.MP.NO.16508 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.509 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 petitioner has been arrayed as A2 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 petitioner for the offence under Sections 147, 294 (b), 323, 342 and 302 r/w 149 IPC and for the offence under Section 147 IPC, 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 294(b) IPC, imposed with a fine of Rs.1000/-, in default, to undergo two months rigorous imprisonment, for the offence under Section 323 IPC, sentenced to undergo six months rigorous

imprisonment and to pay a fine of Rs.500/- in default to undergo one month rigorous imprisonment, for the offence under Section 342 IPC, sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1000/- in default, to undergo two months rigorous imprisonment and for the offence under Section 302 r/w 149 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.5000/- in default to undergo three months rigorous imprisonment and ordered the sentences to run concurrently. Seeking suspension of sentence imposed, the present petition has been filed.

2. The learned counsel appearing for the petitioner submitted that the petitioner stands on the same footing as that of A4. This Court, in Crl.M.P.No.13747 of 2019 in Crl.A.No. 647 of 2019 was pleased to suspend the sentence for A3 to A6 vide order dated 01.11.2019. Thus, the same benefit will have to be extended to the petitioner also.

3. The learned Additional Public Prosecutor appearing for the State submitted that there is a slight difference insofar as the petitioner is concerned. It is also the case of the prosecution that the petitioner has informed A1 and thereafter the occurrence took place. Thus, the petition will have to be dismissed.

4. The differentiation sought to be made by the learned Additional Public Prosecutor, in our considered view, will not alter the position. It is the case of the prosecution that all the accused joined together and attacked the deceased and that is the reason why Section 149 IPC has been roped in. Insofar as A3 to A6 are concerned, we have granted suspension of sentence on the following grounds:-

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.

5.The aforesaid reasoning will apply to the case of the petitioner as well. Considering the above, we are of the view there are sufficient points available in the appeal. 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.III, Vellore and 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.

-sd/-

18/11/2019

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 I ADDITIONAL DISTRICT &
SESSIONS JUDGE, VELLORE.

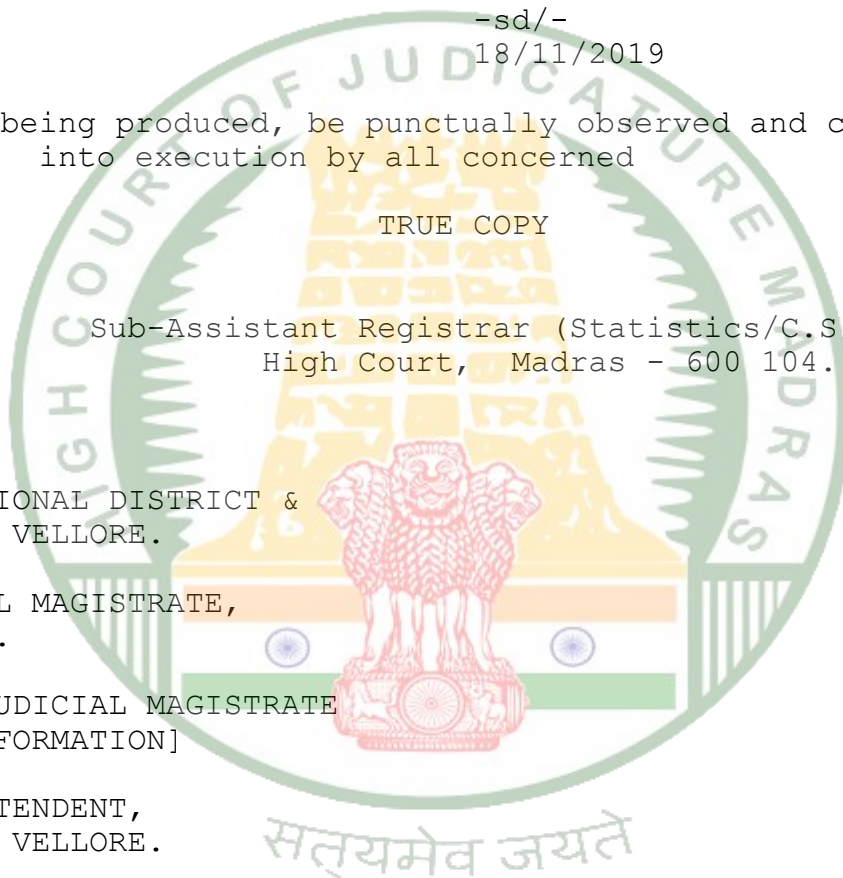
2 THE JUDICIAL MAGISTRATE,
NO.III, VELLORE.

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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



+1C.C. to M/S.M.R.THANGAVEL Advocate on payment of necessary charges SR NO.23661

Order

in
CRL MP.16508/2019
in
CRL A.509/2019

Date :18/11/2019

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MK:18/11/2019



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