

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.16344 of 2019

IN CRL.A.NO.765 OF 2019

1 MURUGAN [PETITIONERS]
2 KALIDOSS
3 SENTHIL @ SENTHILKUMAR

Vs

1 STATE BY [RESPONDENT]
INSPECTOR OF POLICE,
PUZHAI POLICE STATION,
THIRUVALLUR DISTRICT.
CR.NO.763/2010.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.736/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners by the Learned I Addl.Sessions and District Judge, Thiruvallur, Thiruvallur Dist, made in SC No.161/2013 dated 30.09.2019 and enlarge the petitioners on bail pending disposal of the above Criminal Appeal.[CRL.MP.NO.16344/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.736/2019 on the file of the High Court and upon hearing the arguments of M/S.T.R.RAVI, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ, ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioners/A1-A3, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 30.09.2019, made in S.C.No.161 of 2013, by the learned learned First Additional Sessions and District Judge, Thiruvallur, Thiruvallur District, pending disposal of the Criminal Appeal.

2 This Court heard the learned counsel on either side and also perused the materials placed on record.

3 In and by the impugned judgement, the petitioners/A1-A3 were convicted and sentenced for the offence under Section 379 of IPC to undergo three year Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo three months Simple Imprisonment.

4 The learned counsel for the petitioner would submit that the respondent had filed a final report against the appellants for the offences under Section 379 of IPC and the Trial Court had acquitted them for the offences under Section 301 and 201 of IPC. However, the Trial Court had found the petitioners guilty for the offence under Section 379 of IPC alone and sentenced them to undergo to three years rigorous imprisonment and to pay a fine of Rs.2,000/- each and in default in payment of fine, to undergo simple imprisonment for three months. He would submit that the petitioners have paid the fine amount before the Trial Court and the Trial Court has suspended the sentence till 13.10.2019 and the petition for extending suspension of sentence has been filed and it is pending before the Trial Court.

5 The learned counsel for the petitioners/A1-A3 would submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioners/ A1-A3 has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the petitioners/A1-A3 may be suspended.

6 The learned Additional Public Prosecutor has raised objections for suspending the sentence stating that the prosecution has proved its case beyond reasonable doubt and the Trial Court has rightly convicted the petitioners.

7 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the petitioners/A1-A3 is ordered to be enlarged on bail, on the following conditions:-

- i. The petitioners/ A1-A3 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Thiruvottiyur
- ii. The petitioners/A1-A3 shall report before the Trial Court, once in a week, every Monday at 10.30 a.m., until further orders.

-sd/-

13/11/2019

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 AND
DISTRICT JUDGE, THIRUVALLUR,
THIRUVALLUR DISTRICT

2 JUDICIAL MAGISTRATE,
THIRUVOTTIYUR

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR[FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PUZHAL POLICE STATION,
THIRUVALLUR DISTRICT.

+1 C.C. to M/S.T.R.RAVI Advocate on payment of necessary
charges SR.NO. 23343

Order

in
CRL MP.16344/2019

IN CRL.A.NO.765 OF 2019

Date :13/11/2019

From 7.2.2001 the Registry is issuing certified
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RD 14/11/2019

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