

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighteenth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice S. RAMATHILAGAM

CRIMINAL MISCELLANEOUS PETITION NOS.15874 & 16866 OF 2018

IN CRL.A.NOS.763 & 811 OF 2018

SIVA SARAVANA @ KOODAIKAL SARAVANAN

[PETITIONER / APPELLANT
IN CRL.MP.NO.15874 OF 2018
IN CRL.A.NO.763 OF 2018]

DHILIP @ DHILIPKUMAR

[PETITIONER / ACCUSED
IN CRL.MP.NO.16866 OF 2018
IN CRL.A.NO.811 OF 2018]

Vs

STATE REP.BY
INSPECTOR OF POLICE,
V-1, VILLIVAKKAM POLICE STATION,
CHENNAI-600 049.
CR.NO.802/2010.

[RESPONDENT
IN BOTH THE PETITIONS]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NOS.763 & 811 OF 2018 on the file of the High Court, the High Court will be pleased to

[i] grant suspension of sentence passed in S.C.No.200 of 2013 on the file of the learned XVII Additional Sessions Judge, City Civil Court, Chennai-1 and enlarge the petitioner/appellant on bail pending disposal of the above CRL.A.NO.763 OF 2018 [IN CRL.MP.NO.15874 OF 2018]

[ii] suspend the sentence imposed on the Petitioner by Judgment dated.04.07.2018 passed in SC.No.200 of 2013 on the file of the Learned XVII Additional Sessions Judge, At Chennai and enlarge the Petitioner on bail pending disposal of the above CRL.A.NO.811 OF 2018 [IN CRL.MP.NO.16866 OF 2018]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NOS.763 & 811 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.S.PAUL GNANAMUTHU, Advocate for the petitioner [IN CRL.MP.NO.15874/2018 in CRL.A.NO.763/2018] and of M/S.R.VIVEKANANTHAN, Advocate for the Petitioner [IN CRL.MP.NO.16866 /2018 IN CRL.A.NO.811/2018] and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent [IN BOTH THE PETITIONS], the court made the following order:-

(Order of the Court was made by **C.T.SELVAM, J**)

Petitioners/A1 & A3 were convicted for offence u/s.302 IPC and sentenced to undergo Life Imprisonment and fine of Rs.10,000/- each i/d one year R.I by learned XVII Additional Sessions Judge, Chennai, under judgment dated 04.07.2018 in S.C.No.200 of 2013. Hence, petitioners seek suspension of sentence.

2. We have heard learned counsel for petitioner as also learned Additional Public Prosecutor and perused the counter affidavit filed by the respondent.

3. Learned counsel for petitioners would submit that the petitioners are confined at Central Prison, Puzhal, Chennai and there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses.

4. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioners.

5. Considering the facts and circumstances of the case particularly, that PW-3, who allegedly was riding pillion with the deceased when the bike was pushed down before the deceased was set upon has turned hostile and the further submission of learned counsel that though PWs-1 and 2, parents of the deceased have witnessed the occurrence and immediately after the occurrence, rushed to him and handled the deceased but there is no recovery of blood stained clothes from either of them, this Court is inclined to grant suspension of sentence to the petitioners.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be enlarged on bail on condition that the petitioners shall execute a separate bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned XVII Additional Sessions Judge, City Civil Court, Chennai-1, and on further condition that the petitioners shall stay at Madurai and report before the Thallakulam Police Station for a period of eight weeks and thereafter, the petitioners shall appear before the concerned Court on the first working day of every month at 10.30.a.m. pending appeal.

-sd/-
18/01/2019

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 XVII ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT. CHENNAI.

2 THE XVII ADDITIONAL SESSIONS
JUDGE, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON-I, PUZHAL,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
V-1, VILLIVAKKAM POLICE STATION,
CHENNAI-600 049.

6 THE OFFICER INCHARGE,
THALLAKULAM POLICE STATION,
MADURAI.

+1C.C. to M/S.S.PAUL GNANAMUTHU Advocate on payment of necessary charges SR NO.1080

+1C.C. to M/S.R.VIVEKANANTHAN Advocate on payment of necessary charges SR NO.1055

Order

in
CRL MP NOS.15874 & 16866 OF 2018
in
CRL.A.NOS.763 & 811 OF 2018

Date :18/01/2019

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MK:21/01/2019