

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Tenth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.17287 of 2018

IN CRL.A. NO.825 OF 2018

P.SENTHIL @ SENTHIL KUMAR [PETITIONER]

Vs

STATE REPRESENTED BY [RESPONDENT]
THE INSPECTOR OF POLICE,
R-5, VIRUGAMBAKKAM POLICE STATION,
(LAW AND ORDER),
CHENNAI-600 092.
CR.NO.172/2009.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.825/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner by Judgment dated 19.07.2018 passed in SC No.250 of 2009 on the file of the Learned I Additional Sessions Judge City Civil Court At Chennai and enlarge the petitioner on bail pending disposal of the above.[CRL.MP.NO.17287/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.825/2018 on the file of the High Court and upon hearing the arguments of MR.N.R.ELANGO SENIOR COUNSEL FOR M/S.M.KRISHNAMOORTHY Advocate for the petitioner and of MR.R.PRATHAP KUMAR Addl. public prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by **C.T.SELVAM, J**]

Petitioner/Accused faced trial in S.C.No.250 of 2009 on the file of learned I Additional Sessions Judge, City Civil Court, Chennai. Trial Court, under judgment dated 19.07.2018, convicted petitioner for an offence u/s.302 IPC and sentenced him to Life Imprisonment and fine of Rs.1,000/- i/d 6 months S.I. Seeking suspension of sentence, petitioner has moved the present petition.

2. Mr. N.R.Elango, learned Senior Counsel for petitioner
<https://hcservices.ecourts.gov.in/hcservices>

submitted that the occurrence wherein the appellant/petitioner allegedly set up on the deceased and caused her to stab injuries one to the neck and another to the stomach was of 25.02.2009 at 07.30 a.m, the deceased was taken to hospital and she had been under intensive care. The alleged statement of the deceased which was the basis of the FIR had not been recorded in the presence of any Medical Officer. The FIR has reached the Magistrate only on 26.02.2009 only at 10.00 a.m. The deceased had died on 26.02.2009 date at 01.30 p.m. The evidence of the Doctor-P.W.14 informed that the deceased had suffered tear of the wind pipe which had been sutured. It is the submission of the learned Senior Counsel that one who had undergone the surgery of suturing of wind pipe owing to the injury suffered at 7.30 a.m. would be in no position to speak by 10.00 a.m, even while undergoing Intensive Care treatment. The FIR was gravely suspect. The learned Senior Counsel further added that according to the prosecution, P.W.1, admittedly had not witnessed the occurrence but had been at the scene immediately thereafter and attempted to detain the accused. It is prosecution case that the appellant/accused made good his escape after biting P.W.1. There is absolutely no record of injury so suffered by P.W.1 and Investigating Investigating Officer-P.W.18 had admitted that P.W.1 had not suffered injury.

4. Heard learned Additional Public Prosecutor on the above submissions.

5. Considering the facts and circumstances of the case and also considering the submissions of learned counsel on either side, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to the petitioner herein.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a like sum to the satisfaction of learned XI Metropolitan Magistrate, Saidapet, Chennai, and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

10/01/2019

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 I ADDITIONAL SESSIONS
JUDGE, CCITY CIVIL COURT, CHENNAI

2 THE METROPOLITAN MAGISTRATE,
XI, SAIDAPET, CHENNAI

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
R-5, VIRUGAMBAKKAM POLICE STATION, (LAW AND ORDER),
CHENNAI-600 092.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT
CENTRAL PRISON, PUZHAI, CHENNAI

+1 C.C. to M/S.M.KRISHNAMOORTHY Advocate on payment of
necessary charges SR.NO. 761

Order

in
CRL MP.17287/2018

IN CRL.A. NO.825 OF 2018

Date :10/01/2019

सत्यमेव जयते

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 11/01/2019

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