

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Seventh day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL MISCELLANEOUS PETITION No.446 of 2020

IN CRL.A.NO.648 OF 2019

KARUNAKARAN

[PETITIONER]

Vs

THE STATE OF TAMIL NADU

[RESPONDENT]

REP.BY, 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 Criminal Appeal No.648/2019 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 and Sessions Judge, Vellore made in S.C.No.137/2013 by a Judgement dated 31.07.2019 and release him on bail pending disposal of the Crl.A.No.648/2019.[CRL.MP.NO.446/2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.648/2019 on the file of the High Court and upon hearing the arguments of M/S.M.R.THANGAVEL Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

[Order of the Court was made by **R.SUBBIAH, J**]

Petitioner/A1 along with five others faced trial in S.C.No.137 of 2013 on the file learned I Additional District and Sessions Judge, Vellore, Vellore District. Trial Court, under judgment dated 31.07.2019, convicted the petitioner for offences u/s.148, 342 r/w 149 and 302 IPC and sentenced him to 3 years R.I. and fine of Rs.1,000/- i/d 2 months R.I. for offence u/s.148 IPC and 1 year R.I. and fine of Rs.1,000/- i/d 2 months R.I. for offence u/s.342 r/w 149 IPC and life imprisonment and fine of Rs.5,000/- i/d 3 months R.I. for offence u/s.302 IPC. Trial Court directed that sentences run concurrently. Hence, petitioners seek suspension of sentence.

2. The case of the prosecution is that there exists a property dispute between deceased and A3. A3 and his family members claimed exclusive right over the property, which was objected to by deceased. Hence, all the accused formed an unlawful assembly and committed the murder of deceased. The allegation attributed against the petitioner/A1 is that he, at the instigation of A3, assaulted the deceased on his head using a crow bar, resulting in his death.

3. Learned counsel for petitioner submits that except PW-1, none of the witnesses have spoken about A1. The other accused in the case have been granted suspension of sentence by this Court. Petitioner is presently confined at Central Prison, Vellore, and he is in prison for the past eight months. Learned counsel submits that 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. Learned Additional Public Prosecutor vehemently opposes to grant suspension of sentence to the petitioner stating that prosecution has proved its case beyond reasonable doubt through the eye witnesses and sufficient materials.

5. Considering the facts and circumstances of the case as also the fact that the other accused have been granted suspension of sentence and that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

Accordingly, the substantive sentence of imprisonment alone is suspended and the 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 the learned Judicial Magistrate III, Vellore 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/-
27/01/2020

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
SESSIONS JUDGE, VELLORE, VELLORE DISTRICT

2 THE JUDICIAL MAGISTRATE,
NO.III, VELLORE

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE[FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VEPPANKUPPAM POLICE STATION,
VELLORE DISTRICT

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

+1 C.C. to M/S.M.R.THANGAVEL Advocate on payment of necessary
charges SR.NO. 1487

Order

in
CRL MP.446/2020

IN CRL.A.NO.648 OF 2019

Date :27/01/2020

From 7.2.2001 the Registry is issuing certified
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RD 28/01/2020