

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 388 of 2020

in Crl.A No. 17 of 2020

1.Sathyaraj
2.Murugan
3.Satheeshkumar

.... Petitioners

vs

State, Represented by
The Inspector of Police,
T4, Maduravoyal Police Station,
Chennai.

.... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed in S.C.No. 97 of 2015 dated 11.12.2019 on the file of II Additional District and Sessions Judge, Thiruvallur at Poonamallee and enlarge the petitioners on bail, pending disposal of the appeal.

For Petitioners .. Mr.R.Sankarasubbu

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioners have been arrayed as accused/A1 to A3 in S.C.No. 97 of 2015 on the file of the II Additional District and Sessions Judge, Thiruvallur at Poonamallee. They were accordingly convicted for the offence punishable under Sections 302 r/w 34, 120(B) r/w 34, 201 r/w 34 IPC by judgment dated 11.12.2019. For the offence punishable under Section 302 r/w 34 IPC, the petitioners were sentenced to undergo life imprisonment and to pay a fine of Rs.3,000/- each, in default, to undergo one month rigorous imprisonment, for the offence punishable under Section 120(B) r/w 34 IPC, the petitioners were sentenced to undergo life imprisonment and to pay a fine of Rs.3,000/- each and in default, to undergo one month

rigorous imprisonment and for the offence punishable under Section 201 r/w 34 IPC, the petitioners were sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- each and in default, to undergo one month rigorous imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased was having illicit relationship with the wife of A2. A1 and A3 are the relatives of A2. Despite warning, the deceased did not mend his ways. Therefore, one of the accused took the deceased to the place of occurrence followed by others and committed the offence.

3.Learned counsel appearing for the petitioners submitted that it is a case of circumstantial evidence. The trial Court ought not to have accepted the evidence with respect to arrest, recovery and the last seen theory. The petitioners are under incarceration for nearly two years. The detention orders passed against them were subsequently quashed by this Court.

4.Learned Additional Public Prosecutor appearing for the State submitted that the trial Court found the arrest and recovery to be correct. The witnesses also speak about seeing the deceased with the petitioners. The motive has also been proved as there was a prior quarrel between the parties.

5.The petitioners are under incarceration for nearly two years. It is a case of a circumstantial evidence. Thus, considering the above, we are of the view that there are arguable points available in the appeal coupled with the period of incarceration undergone by the petitioners.

6.Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of 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 Judicial Magistrate, Poonamallee and on further condition that they shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

21/12/2020

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 II ADDITIONAL DISTRICT
AND SESSIONS JUDGE,
THIRUVALLUR AT POONAMALLEE.

2 THE JUDICIAL MAGISTRATE,
POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

5 THE INSPECTOR OF POLICE,
T4, MADURAVOYAL POLICE STATION,
CHENNAI.

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.R.SANKARASUBBU Advocate on payment of necessary
charges SR.No.8515

Order

in
CRL MP.388/2020

in
CRL.A.17/2020

Date :21/12/2020

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