

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No.1679 of 2020
in CrI.A No.83 of 2020

Narayanan @ Adhinarayanan ... Petitioner

vs

State rep. by ... Respondent
The Inspector of Police,
T-9, Pattabiram Police Station,
Thiruvallur District.
(Cr.No.55 of 2010)

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed in S.C.No.273 of 2014 dated 31.10.2019 on the file of the I Additional District and Sessions Judge, Thiruvallur pending disposal of the Criminal Appeal.

For Petitioner .. Mr.R.Sankarasubbu

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

ORDER

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

The petitioner has been arrayed as A1 in S.C.No.273 of 2014 on the file of the I Additional District and Sessions Judge, Thiruvallur. By judgment dated 31.10.2019, the petitioner was convicted for the offence punishable under Section 302 r/w 34 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The case of the prosecution is that the deceased was a friend of one Sivakumar. The said Sivakumar was murdered by the group headed by one Anandaraj. Enraged over the same, the deceased murdered one Premkumar belonging to the group of Anandaraj. By way of retaliation, and at the instance of Anandaraj, all the accused

joined together and committed the offence. A3 died pending trial. A4 was acquitted while A1 and A2 were convicted. As stated, the petitioner is arrayed as A1.

3.Learned counsel appearing for the petitioner submitted that even as per the version of the prosecution, all the accused as well as the deceased were fully drunk. The evidence of P.W.1 is highly doubtful. There are injuries found on the accused including the petitioner. The mother of the deceased could not have been the eye witness if one sees through the evidence of P.W.1 The petitioner has been under incarceration from 31.10.2019 onwards. There are arguable points available in the appeal. Therefore, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that the trial Court rightly relied upon the evidence of P.W 1 to P.W.18. The said evidence deals with the recovery made. It is a case of retaliation murder. The injury has also been explained by the prosecution. It is not as if in all cases where injuries are suffered by the accused the case of the prosecution would fall. Thus, considering the above, the trial Court rightly convicted the petitioner and therefore, no interference is required.

5.The petitioner has been under incarceration from 31.10.2019 onwards. There is no other previous case in which the petitioner is stated to be involved. The co-accused namely, A4 has been acquitted. The petitioner also suffered injuries. The petitioner and the deceased were found to be under the control of alcohol which is also the case of the prosecution. Thus, considering the above, we do find that there are sufficient points available in the appeal to be agitated. This coupled with the period of incarceration make us to consider the case of the petitioner for granting suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that 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 No.II, Thiruvallur and on further condition that he shall stay at Trichy and report before the Town Police Station, Trichy daily at 10.30 a.m. until further orders.

-sd/-

22/12/2020

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 I ADDITIONAL DISTRICT AND SESSIONS
JUDGE, THIRUVALLUR.

2 THE JUDICIAL MAGISTRATE,
NO.II, THIRUVALLUR.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
T-9, PATTABIRAM POLICE STATION,
THIRUVALLUR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

6 THE OFFICER INCHARGE,
TOWN POLICE STATION,
TRICHY.

C.C. to M/S. R.SANKARASUBBU Advocate on payment of necessary
charges

Order

in

CRL MP.1679/2020

in

CRL A.83/2020

Date :22/12/2020

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