

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRIMINAL MISCELLANEOUS PETITION No.3183 of 2020

IN CRL.A.NO.174 OF 2020

Karthi @ Karthikeyan,
S/o Balasundharam

... Petitioner

-vs-

The State, Represented by
The Inspector Of Police
Town Police Station,
Villupuram District.
Crime No.825 of 2012

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code, to suspend the sentence passed by the Additional District Judge, (Fast Track Court) Villupuram, in Sessions Case No.298 of 2013 dated 04.01.2019 be suspended pending disposal of the appeal.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Ms.M.Prabhavathi,
Addl. Public Prosecutor

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ORDER

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

The petitioner is the sole accused in S.C.No.298 of 2013 on the file of the Additional District Judge, (Fast Track Court), Villupuram. The trial Court by judgment dated 04.01.2019, convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for six months; convicted him under Section 307 IPC and sentenced him to undergo rigorous imprisonment and to pay a fine of

Rs.3,000/-, in default, to undergo simple imprisonment for one month and convicted him under Section 506(ii) IPC, sentenced him to undergo three years rigorous imprisonment and ordered the sentences to run concurrently. Seeking to suspend the sentence, the present petition has been filed.

2. The case of the prosecution is that the petitioner was having a dispute with his father. The deceased and P.W.2 came to the place of occurrence to diffuse the situation. The petitioner is stated to have attacked P.W.2 and thereafter the deceased.

3. Learned counsel appearing for the petitioner submits that there is no motive that has been established as against the deceased. The deceased was in inebriated condition. Post-mortem certificate coupled with the evidence of Doctor would clearly substantiate the same. There was a wordy quarrel. Considering the above coupled with the period of incarceration, the sentence will have to be suspended as there are arguable points available in the appeal.

4. Learned Additional Public Prosecutor appearing for the State submitted that there is an injured witness in the form of P.W.2. The deceased was drunk cannot be a factor to suspend the sentence. Not only the deceased but also the petitioner was drunk. Therefore, this petition will have to be dismissed.

5. The petitioner has been under incarceration from the month of January 2019 onwards. Thus, he is under incarceration for about 1 ½ years. We do find the existence of arguable points in the appeal. It is a case where both the petitioner and the deceased were drunk. There appears to be wordy quarrel.

6. Thus, considering the above, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the petitioner executes his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the Superintendent, Central Prison, Cuddalore, and on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

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-sd/-
01/07/2020

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 ADDITIONAL DISTRICT JUDGE
(FAST TRACK COURT), VILLUPURAM,

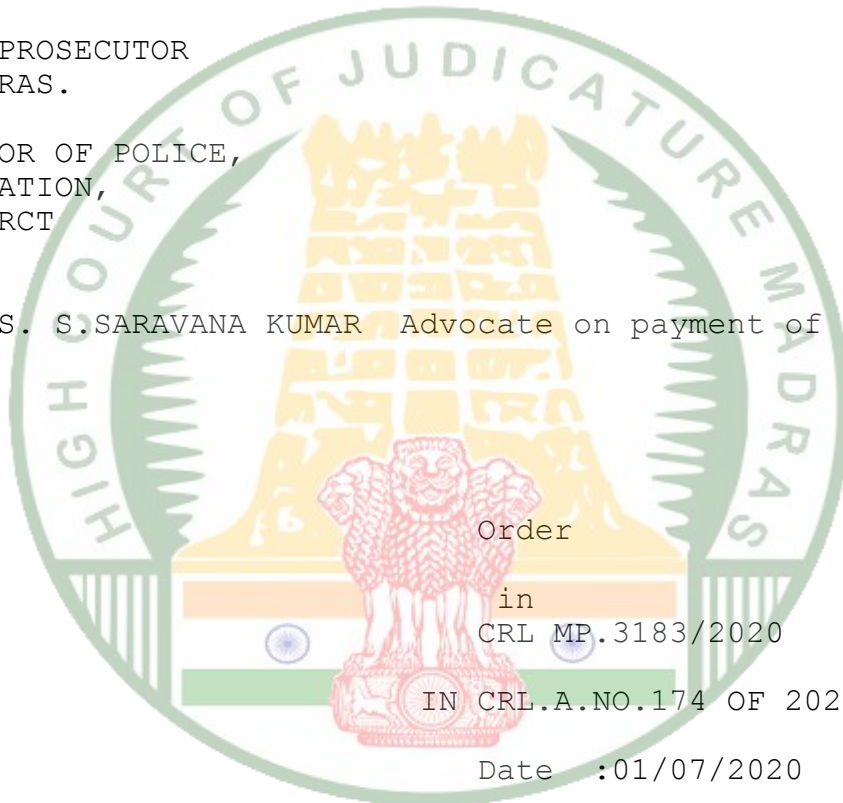
2 THE JUDICIAL MAGISTRATE,
NO.I,VILLUPURAM,

3 THE SUPERINTENDENT,
CENTRAL PRISON,CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
TALUK POLICE STATION,
VILLUPURAM DISTRICT

C.C. to M/S. S.SARAVANA KUMAR Advocate on payment of necessary
charges



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rd 21/07/2020

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