

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

AND

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Crl.M.P. No. 3486 of 2020

in Crl.A. No. 746 of 2019

Marimuthu

....Petitioner

Vs.

The State rep. by
The Inspector of Police,
Nannilam Police Station,
(Crime No. 219/2017)

....Respondent

Prayer: Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in the judgement dated 19.08.2019 made in S.C.No. 14 of 2018 on the file of Principal District and Sessions Court Thiruvavur and enlarge the petitioner on bail pending disposal of C.A.No. 746 of 2019.

For Petitioner .. Ms.S. Shanthakumari

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

ORDER

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

The petitioner is the husband having been arrayed as A1 and the co-accused is his wife. The petitioner was convicted in S.C. No. 14 of 2018 on the file of Principal District and Sessions Judge, Thiruvavur. The trial Court by judgment dated 19.08.2019 convicted the petitioner for the offence punishable under Sections 341 IPC and 302 IPC. For the offence under Section 341 IPC, the Trial Court sentenced the petitioner to pay a fine of Rs.500/- in default to undergo a week's simple imprisonment and for the offence under Section 302 IPC, sentenced him to undergo life imprisonment together with a fine of Rs.500/- carrying a default sentence of three months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that there was a quarrel between the deceased and one Kasinathan, over the refusal of the deceased to contribute for the sixteenth day death ceremony of a person, by name, Durai. As a consequence, there was a quarrel between the deceased and A2 and the deceased is said to have pushed A2 by touching upon her chest, which is said to have been informed to the petitioner by A2. When the petitioner and A2 wanted to make a complaint to P.W.3, they happened to see the deceased along with P.W.s 1 to 4 and 6. Thereafter, the petitioner is said to have stabbed the deceased with a knife resulting in his death.

3. Learned counsel appearing for the petitioner submitted that the petitioner has been under incarceration from 19.08.2019 onwards. It may be a case of sustained provocation provided the case of the prosecution is accepted by this Court. There was no intention to commit the offence. The evidence of P.W.s 1 to 4 cannot be accepted being that of interested witnesses. Therefore, the learned counsel submitted that the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that P.W.s 1 to 4 and 6 are eye-witnesses and P.W.6 is an independent witness. This, coupled with the recovery clearly shows the involvement of the petitioner in the offence. Therefore, the present petition will have to be dismissed.

5. Admittedly, the petitioner has been under incarceration from 19.08.2019 onwards. Nearly, more than one year has elapsed as of now. The incident has occurred consequent to a quarrel that was triggered by the deceased himself. The death was also caused by a single stab. Thus, considering the above, we are inclined to suspend the 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 learned District cum Judicial Magistrate, Nannilam 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.

-sd/-

08/12/2020

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 PRINCIPAL DISTRICT AND SESSIONS COURT,
THIRUVARUR.

2 THE DISTRICT CUM JUDICIAL MAGISTRATE,
NANNILAM.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
NANNILAM POLICE STATION,

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 C.C. to M/S.M.G.UDAYASHANKAR Advocate on payment of
necessary charges SR.NO.8001

Order

in

CRL MP.3486/2020

in

CRL A.746/2019

Date :08/12/2020

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