

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.07.2020

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

AND

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Crl.M.P.No.3956 of 2020

in

Crl.A.No.229 of 2020

1.Selvaraj
2.Sundarraaj
3.Nallusamy
4.Chellapillai
5.Nallakannu
6.Manikandan

... Petitioners/Accused Nos.1 to 5 & 7

Vs

State represented by Inspector of Police
V.Kalathur Police Station
Perambalur District.
Crime No.149/2009.

... Respondent

PRAYER : Criminal Miscellaneous Petition filed under Section 389 (2) read with 439 of Criminal Procedure Code praying to suspend the sentence imposed on the petitioners by the learned Sessions Judge, Mahila Court, Perambalur, Perambalur District, dated 27.02.2020 made in S.C.No.43 of 2010 and enlarge them on bail pending disposal of the above Criminal Appeal.

For Petitioners : Mr.V.Balu

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

O R D E R

(Order of the court was made by N.KIRUBAKARAN.J.,)

The matter was heard through "Video Conferencing".

2.This Petition has been filed by Accused Nos.1 to 7 except Accused No.6, who have been convicted for life imprisonment by the learned Sessions Judge, Mahila Court, Perambalur, Perambalur District, by judgment dated 27.02.2020 made in S.C.No.43 of 2010 for murdering one Kandasamy, due to land dispute.

3.The case of the prosecution is that one Kandasamy and the accused are neighbouring land owners. Kandasamy purchased a

property, which was also sought to be purchased by the accused. On the date of occurrence, all the accused went to Kandasamy's land, picked up quarrel and they chased Kandasamy and indiscriminately stabbed him to death. After considering the evidence, the Trial Court convicted all the accused persons for life imprisonment.

4.The learned counsel for the petitioners would submit that the Police as usual distributed the overt act on all the persons including the lady, the fifth petitioner herein, who is aged about 68 years. The evidence relied upon by the trial Court is unbelievable, as all the persons participated in the crime. Therefore, he prays this Court to suspend the sentence imposed against the petitioners.

5.On the other hand, Mrs.M.Prabhavathy, learned Additional Public Prosecutor would submit that there is already a dispute between the two persons in purchasing the property and the intention is only to do away with Kandasamy, who purchased the property which they wanted to purchase. Therefore, they went to the land, picked up quarrel with the said Kandasamy, chased him and caused stab injuries. Hence, she sought for dismissal of the petition.

6.Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the respondent.

7.The learned Additional Public Prosecutor would rely upon the evidence of P.W.1, P.W.2 and P.W.4 to prove that the intention of the accused persons is to do away the said Kandasamy. It is unbelievable to state that the lady, who is aged about 68 years also stabbed the deceased. Even though all the witnesses have spoken about the participation of other accused in stabbing the deceased, the only participation of the lady in the crime is that she instigated the other accused persons to murder the deceased. It is unbelievable that she instigated to murder him. Probably, she would have abused the victim. In any event, arguable points are involved in this appeal.

8.Considering the above facts and submissions, this Court is inclined to order suspension of sentence against the fifth petitioner viz., fifth accused alone and dismiss the prayer against all the other petitioners with liberty to file a fresh petition. Accordingly, the substantive sentence of imprisonment imposed by the learned Sessions Judge, Mahila Court, Perambalur, Perambalur District, against the fifth petitioner alone is suspended on the following conditions:

(i) The fifth petitioner is directed to execute her own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of Prison, Central Prison for women, Tiruchirapalli in view of the prevailing pandemic situation.

(ii) The fifth petitioner being a lady aged about 68 years, there is no necessity for her appearance before the Police Station.

(iii) This petition is dismissed in respect of petitioners 1 to 4 and 6 with liberty to file a fresh petition.

-sd/-
20/07/2020

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 SESSIONS JUDGE,
MAHILA COURT, PERAMBALUR,
PERAMBALUR DISTRICT.

2 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON FOR WOMEN,
TIRUCHIRAPALLI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
V.KALATHUR POLICE STATION,
PERAMBALUR DISTRICT.

C.C. to SWAMISUBRAMANIAN Advocate on payment of necessary charges

Order

in
CRL MP.3956/2020
in
CRL A.229/2020

Date :20/07/2020

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format

MK:06/08/2020