

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.05.2020

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

Crl.MP.No.4018 of 2020

in Crl.A.No.236 of 2020

1. ManikandanPetitioners /Appellants / A1 to A3
2. Kumar
3. Durairaj

Vs

State by ... Respondent / Respondent
The Inspector of Police
Meensuriti Division
Ariyalur District.
(Cr.No.54/2019)

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) & 439 of Cr.P.C., to suspend the order of conviction and sentences imposed on the petitioners in S.C.No.108 of 2019 by the learned Additional District & Sessions Judge, Ariyalur, Ariyalur District, by the judgment dated 06.03.2020, and enlarge them on bail, pending disposal of the above criminal appeal.

For Petitioners : Mr.K.Balu

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl. Side)

ORDER

The petitioners herein were accused of committing offence under Section 302 IPC., and arrayed as A1 to A2 in the Special Case No.108/2019 on the file of the Additional District & Sessions Court, Ariyalur, Ariyalur District. Vide its judgment dated 06.03.2020, the learned Sessions Judge found the petitioners guilty for committing an offence under Sec.304(ii) IPC., and sentenced them to undergo five years imprisonment, and directed them to pay a fine of Rs.25,000/- each, in default 6 months simple imprisonment. The petitioners are in jail and now files a petition for suspension of sentence and bail.

2. The date of occurrence was on 02.04.2019. The occurrence was preceded by a small event in the earlier part of the day, when the victim's son and the accused persons got involved in a road accident. It appears that the motorcycle belonging to the accused persons were damaged by the negligence or whatever, by the son of the accused. It is also seen from the judgment that the victim's son had taken the motorcycle of the petitioners' for repairing it to an adjacent place,

but as the workshop was closed on that day, he decided to go to the workshop on the following day. In the meantime, on that night, all the three accused persons came to the house of the victim, and wanted the victim's son to come out of his house. Instead, his parents came out to pacify the accused persons and some differences arose among them, in which the accused persons were said to have assaulted the victim, who is the father of the boy who was involved in the motor accident earlier in the day, and stamped him on his chest. The victim was taken to the hospital, and on the following day he died. The postmortem report shows two injuries, one a contusion on the chest and injury to one of the lungs.

3. After appreciating the evidence, the vital of which is the witness of the eye-witness, who is the wife of the victim, the trial Court found the accused persons guilty of offence under Section 304 (ii) IPC., and sentenced them to undergo imprisonment for a term of 5 years, with a direction to pay a fine of Rs.25,000/- each, in default 6 months simple imprisonment.

4. The learned counsel for the petitioners/appellants submitted that the petitioners are falsely implicated in the case, and there are enough materials to indicate that the injury might have been caused by the victim himself, when he fell on the ground. He also added that the medical evidence in this case, which may be conclusive as to the nature of the injuries suffered, but can never be certain for the cause of injuries suffered by the victim. Hence, he prayed this Court to suspend the conviction and sentence imposed on the petitioners by the trial Court.

5. Heard Mr.R.Ravichandran, the learned Government Advocate, appearing for the State, who opposed this Court granting suspension of sentence imposed on the petitioners.

6. After appreciating the rival submissions and after carefully perusing the judgment of the trial Court, the nature of evidence relied on by it, this Court prima facie considers that pending appeal, the substantive sentence of conviction and imprisonment imposed on the petitioners can be suspended. Hence, the petitioners herein are directed to be enlarged on bail on the following conditions:-

- a) The petitioners are ordered to be released on bail, on they executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, each for a like sum to the satisfaction of the trial Court, within a period of one month from the date of receipt of a copy of this order.
- b) The petitioners are directed to pay a fine amount as directed by the learned Sessions Judge in his judgment dated 06.03.2020 in S.C.No.108 of 2019, before executing the bond.
- c) The petitioners are directed to appear before the trial Court concerned on the first Monday of every month starting June 2020, at 10.30 a.m., until the disposal of the criminal

appeal, However, their personal appearance before the trial Court is subject to such directions or instructions of the Government regarding movement of persons during the ongoing COVID-19 crisis.

- d) On the failure of any of the above conditions by the petitioners/accused, it is open to the trial Court to commit the petitioners / accused into custody for undergoing the sentence.

This petition is ordered accordingly.

-sd/-
29/05/2020

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 & SESSIONS JUDGE,
ARIYALUR, ARIYALUR DISTRICT.

2 THE INSPECTOR OF POLICE,
MEENSURITI DIVISION,
ARIYALUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to MR.K.BALU, Advocate on payment of necessary charges

Order

in
CRL MP.4018/2020
in
CRL.A.No.236/2020

Date :29/05/2020

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TA-18/06/2020