

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 4441 of 2020

in CrI.A No. 274 of 2020

Sasikumar @ Varadarajan Petitioner

vs

The State Rep. by
The Inspector of Police,
Velur Police Station,
Namakkal District. Respondent
Cr.No.164/2013.

Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence of imprisonment dated 04.03.2020 made in S.C.No. 63 of 2017 on the file of Principal Sessions Judge, Namakkal and to enlarge the petitioner on bail.

For Petitioner .. Mr.A.Padmanabhan

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 A2 in S.C.No. 63 of 2017 on the file of the Principal Sessions Judge, Namakkal. The trial Court by judgment dated 04.03.2020 convicted the petitioner for the offence punishable under Section 302 r/w 34 IPC and sentenced him to undergo imprisonment for life and to pay a fine of Rs.10,000/-, in default, to undergo four years simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that A1, who is the grand son of the deceased was inimically disposed of towards him for not parting with the property owned by him in his favour. The other reason is the damage being caused on the reputation of A1 having

been called as the child born out of the illicit relationship between the deceased and his mother, namely P.W1. The evidence suggests that A1 was dropped in the place of occurrence by the petitioner. A1 is said to have attacked the deceased with knife and grinding stone and committed the offence. Based upon the extra judicial confession statement given by A1 to the Village Administrative Officer, the petitioner has been implicated. The overt act attributed against the petitioner is that he strangulated the deceased with the rod while A1 attacked him. The recovery was also made pursuant to the statement made by the petitioner.

3. Learned counsel appearing for the petitioner submitted that the petitioner has got no role to play. This is a case based upon the circumstantial evidence. All the witnesses turned hostile. This petitioner is a Professor imparting education. The conviction has been rendered based upon the extra judicial confession given by A1 coupled with the recovery. Both are extremely doubtful. Thus the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that recovery has been made pursuant to the statement made by the petitioner. He was a partner in financing along with sister's husband of A1. Thereafter, he became a friend of A1. The evidence would suggest that he dropped A1 at the place of occurrence. Therefore, this petition will have to be dismissed.

5. From the narration of facts, it is seen that this petitioner stands on a different footing. Certainly, there is no motive insofar as this petitioner is concerned. It is a case of circumstantial evidence. He has been implicated based on the confession statement given by A1 and recovery pursuant to the statement made by him. The post-mortem also suggests that the death occurred due to the injuries caused on the deceased by the overt act committed by A1. Thus, we are of the view that there are contentious issues involved and 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 Judicial Magistrate II, Namakkal 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/-

05/11/2020

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 SESSIONS JUDGE,
NAMAKKAL.

2 THE JUDICIAL MAGISTRATE II,
NAMAKKAL.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
VELUR POLICE STATION,
NAMAKKAL DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S. A.PADMANABHAN Advocate on payment of necessary
charges SR.NO.7294

Order

in
CRL MP.4441/2020
in
CRL A.274/2020

Date :05/11/2020

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