



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Seventh day of January Two Thousand Twenty

WEB COPY

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL MISCELLANEOUS PETITION No.5928 of 2019

IN CRL.A.NO.240 OF 2019

RAJMOHAN

[PETITIONER]

Vs

THE INSPECTOR OF POLICE
MANNARGUDI TOWN POLICE STATION,
MANNARGUDI,
THIRUVARUR DISTRICT.
CR.NO.327 OF 2017

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.240/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence and conviction imposed on the petitioner by the learned Principal District and Sessions Judge, Thiruvavarur in Sessions Case No.100/2017 by judgment dated 28.03.2019 enlarge him on bail pending disposal of the above Criminal Appeal.[CRL.M.P.NO.5928/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.240/2019 on the file of the High Court and upon hearing the arguments of MR.VEERA KATHIRAVAN SENIOR COUNSEL FOR M/S.VEERAASSOCIATES Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petitioner/A2 along with A-1 faced trial in S.C. No.100 of 2017 on the file of the learned Principal District and Sessions Judge, Thiruvavarur. The Trial Court under judgment dated 28.03.2019, convicted the petitioner and sentenced him as follows:

Accused	Offence	Sentence
A2	302 r/w 34 IPC	Life imprisonment and fine of Rs.1,000/- i/d 3 months R.I.
	294(b) IPC	15 days R.I.

2. However, the Trial Court directed that both the sentences shall run concurrently.



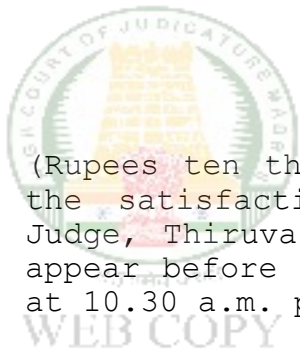
3. The case of the prosecution is that both the accused namely, A1 and A2 are relatives and residing at Mannargudi. The 1st accused was an alcoholic and he used to shout with filthy language at the street. The deceased Jeyaraman was staying at his newly constructed house in Kaathayee Amman Kovil Street. His wife Mohanambal, son Kamalathasan and daughter-in-laws are residing in a rental house near the house of the accused. On the date of occurrence on 18.04.2017, it is alleged that Mohanambal, wife of the deceased, was watching television. At that time, the first accused who was standing in front of her house, scolded her with filthy language for watching the television with enormous volume. On hearing the same, the deceased Jayaraman came out of the house and confronted the first accused for scolding his wife. There was a wordy altercation between the deceased and the first accused during which the second accused also came to the place. It is alleged that the first accused hit the deceased with an iron rod on the forehead while the second accused assaulted the deceased with a cement brick. Thereafter, the second accused held the deceased Jayaraman which facilitated the first accused to hit the deceased with a cement mortar repeatedly. Even though the deceased was admitted in the hospital, he succumbed to the injuries on 21.04.2017.

4. Learned counsel for the petitioner submits that there is no specific overtact attributed against the petitioner/A2 and that the entire overtact is against A1. Learned counsel drawn the notice of this Court to the evidence of PW1 and submitted that A2 has attacked the deceased with the wooden log on the shoulder and leg. He also drawn the notice of this Court to the copy of the Accident Register wherein it has been stated that the deceased was attacked by a single person. Learned counsel for the petitioner further submits that the petitioner is presently confined at Central Prison, Tiruchirappalli and he is in prison for the past one year. Learned counsel also submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. Learned counsel further submits that the petitioner has paid the fine amount, hence he seeks for suspension of substantial period of sentence.

5. Learned Additional Public Prosecutor vehemently opposes to grant suspension of sentence to the petitioner.

6. Considering the facts and circumstances of the case, the fact that the petitioner has been in custody for one year, there are several infirmities in the prosecution case as contended by the counsel for the petitioner and there are arguable points involved in the appeal and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner/A-2 is directed to be enlarged on bail on condition that he shall execute a bond in a sum of Rs.10,000/-



(Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Thiruvavarur and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

Post the Appeal on 27.01.2020.

-sd/-

07/01/2020

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 JUDGE, THIRUVARUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR[FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPALLAI

4 THE INSPECTOR OF POLICE
MANNARGUDI TOWN POLICE STATION,
MANNARGUDI, THIRUVARUR DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.VEERA ASSOCIATES Advocate on payment of necessary charges SR.NO. 259

Order

in
CRL MP.5928/2019

IN CRL.A.NO.240 OF 2019

Date :07/01/2020

From 7.2.2001 the Registry is issuing certified
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RD 08/01/2020