

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 5569 of 2020
in Crl.A No. 218 of 2020

R.Vinay

... Petitioner

vs

The State Rep. by
The Inspector of Police,
Mathigiri Police Station,
Krishnagiri District.

... Respondent

Petition filed under Section 389(1) r/w 439 of Cr.P.C. to suspend the conviction and sentence imposed in S.C.No. 114 of 2009 on the file of the Additional District and Sessions Judge, Hosur, dated 23.1.2020 pending disposal of the appeal in C.A.No. 218 of 2020.

For Petitioner .. Mr.Prabhakaran, Sr. Counsel
for Mr.A.Saravanan

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 the fourth accused in S.C.No. 114 of 2009 on the file of Additional District and Sessions Judge, Hosur, Krishnagiri District. The trial Court by judgment dated 23.01.2020 convicted the petitioner for the offence punishable under Sections 449, 396, 395 r/w 397 IPC. For the offence punishable under Section 449 IPC sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment, for the offence punishable under Section 396 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment and for the offence punishable under Section 395 r/w 397 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment.

2. Seeking suspension of sentence, the present petition has been filed on the sole premise that he needs to take care of ailing wife by performing surgery pursuant to the one conducted earlier.

3. Learned senior counsel appearing for the petitioner, placing reliance upon the documents evidencing the physical condition of the wife of the petitioner inclusive of the doctor certificate, submitted that after completing the formalities, the surgery scheduled to be held during the first week of December 2020 preferably 3rd or 4th. For the above, the petitioner has to be with his wife prior to the same and after the surgery. Therefore, on medical grounds and in order to facilitate the proper conduct of the surgery for his wife, sufficient time may be granted by suspending the sentence.

4. Learned Additional Public Prosecutor appearing for the State relied upon the letter of the respondent addressed to the office of the Public Prosecutor and submitted that it does not appear as if the surgery is immediately required.

5. We are considering the request of the petitioner only on medical grounds and therefore, we are not inclined to go into the merits. The fact remains that the petitioner's wife did undergo surgery pursuant to the accident on the earlier occasion. As of now, she is taking treatment as an outpatient. The medical records prima facie suggest the need for surgery. It is submitted that the surgery is scheduled to be held either on 3rd or 4th of December 2020. The respondent is not a competent person to make any statement on the need for surgery. Whether surgery is required or not is the domain of the doctor. The records have also been produced for the aforesaid purpose. Therefore, we are not inclined to conduct a roving enquiry on this aspect.

6. Accordingly, we suspend the sentence of the petitioner from 23.11.2020 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 No.II, Hosur, Krishnagiri District. The petitioner should surrender before the concerned Court, after the successful completion of the surgery and after post operative measures of his wife on 25.12.2020. The petitioner shall also furnish records pertaining the proposed surgery including the date of surgery to the jail authorities on or before 13.11.2020.

Post the matter 'for reporting compliance' on 05.01.2021.

-sd/-
09/11/2020

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 JUDICIAL MAGISTRATE NO.II,
HOSUR, KRISHNAGIRI DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
HOSUR, KRISHNAGIRI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
MATHIGIRI POLICE STATION,
KRISHNAGIRI DISTRICT.

+1C.C. to M/S. A.SARAVANAN Advocate on payment of necessary charges SR NO.7387

Order

WEB COPY

in
CRL MP.5569/2020

in
CRL A.218/2020

Date :09/11/2020

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MK:09/11/2020