



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 7752 of 2020

in Crl.A No.483 of 2019

K.Shanmugam

... Petitioner

VS

State by

... Respondent

The Inspector of Police (L & O)
V-5, Thirumangalam Police Station,
Chennai-600 101.
(Cr.No.97 of 2008)

Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence passed by the II Additional Sessions Court, Chennai in S.C.No.5 of 2011 dated 25.07.2019 pending disposal of the appeal.

For Petitioner .. Mr.P.Pugalenth

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 A1 along with ten other accused in S.C.No. 5 of 2011 on the file of the II Additional Sessions Judge, City Civil Court, Chennai. He was accordingly convicted for the offence punishable under Sections 148, 341 r/w 149 and 302 r/w 149 IPC by judgment dated 25.07.2019 and for the offence punishable under Section 148 IPC, the petitioner was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment and for the offence punishable under Section 341 r/w 149 IPC, the petitioner was sentenced to undergo one month simple imprisonment and for the offence punishable under Section 302 r/w 149 IPC, the petitioner was sentenced to undergo life imprisonment and to pay a fine of Rs.2,000/, in default, to undergo three months



simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2. The case of the prosecution is that the deceased developed an illicit relationship with the wives of the petitioner/A1 and A4. Enraged over the same, all the accused joined together and committed the offence.

3. Learned counsel appearing for the petitioner submitted that the petitioner has been under incarceration from 25.07.2019 onwards. The co-accused, except A4, got their sentences suspended. The very case of the prosecution is that all the accused joined together and attacked the deceased. P.W.1, who is the author of the First Information Report, is the only eye witness as the other eye witnesses turned hostile. Even he has stated in the complaint that the deceased was attacked by an unknown persons. Thus, considering the above, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that P.W.1 is the eye witness. The trial Court rendered conviction by placing reliance upon the evidence of P.W.1 coupled with the recovery made. Thus, this petition requires to be rejected.

5. The petitioner has been under incarceration from 25.07.2019 onwards. There is only one eye witness in the form of P.W.1, who has not named the petitioner in the FIR. Thus, considering the above, we are inclined to suspend the sentence especially by taking into consideration the period of incarceration undergone by the petitioner.

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 II Additional Sessions Court, Chennai and on further condition that he shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
17/12/2020

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 II ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI.

<https://hcservices.ecourts.gov.in/hcservices/>



2 THE INSPECTOR OF POLICE (L AND O),
V-5 THIRUMANGALAM POLICE STATION,
CHENNAI-101,

WEB COPY
3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

C.C. to M/S.P.PUGALENTHI Advocate on payment of necessary
charges

Order

in
CRL MP.7752/2020

in
CRL A.483/2019

Date :17/12/2020

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TA-18/12/2020