

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.11.2020

Coram

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

CRL MP No.7013 of 2020
in Crl.A No. 229 of 2020

Nallusamy ... Petitioner

vs

The State Rep. by
The Inspector of Police,
V.Kalathur Police Station,
Perambalur District. ... Respondent

Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence of imprisonment imposed on the petitioner by judgment dated 27.02.2020 passed by the Sessions Judge, Mahila Court, Perambalur in S.C.No. 43 of 2010 till the disposal of appeal.

For Petitioner .. Mr.J.Karuppiah

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 A3 in S.C.No. 43 of 2010 on the file of Sessions Judge, Mahila Court, Perambalur. The trial Court by judgment dated 27.02.2020 convicted the petitioner for the offence punishable under Section 307 IPC sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment along with the other co-accused. Seeking suspension of sentence imposed, the present petition has been filed.

2. This Court, considering the case with respect to the other co-accused, granted suspension of sentence in Crl.M.P. No. 6216 of 2020 in Crl.A.No. 229 of 2020 dated 02.11.2020. The overt act attributed against the petitioner is that he and the petitioner attacked the deceased while A1 and A2 committed the offence. Following is the reason assigned for consideration to suspend the sentence for the other co-accused. Para 5 of the order is extracted below:

"5. Upon hearing the submissions, we are of the view that the prosecution ought to have tried both the cases together. Even if Section 468 of Cr.P.C is applicable, it could not act as a complete embargo. The delay in the given case can very well be explained. The prosecution has not taken any steps to go for joint trial. If that is taken into consideration the case as projected by the prosecution creates serious doubt on prima facie consideration. We are dealing with a situation involving a case in counter. Therefore, the question for consideration as to whether the offence committed under Section 302 IPC is made out or not. The petitioners are under incarceration from 27.02.2020 onwards. The dispute arose pursuant to the span emanated over usage of water available in the common well. Thus, we do find several points available in the appeal to be considered. In such view of the matter, we are inclined to suspend the sentence."

3. In the light of the above and taking note of the overt act attributed against the petitioner along with other co-accused, we are inclined to suspend the sentence.

4. 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 Sessions Judge, Mahila Court, Perambalur and on further condition that the petitioner shall stay at Madurai and report before Thallakulam Police Station, Madurai every day at 10.30 am., until further orders.

-sd/-
सत्यमेव जयते 10/11/2020

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 SESSIONS JUDGE,
MAHILA COURT, PERAMBALUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
V.KALATHUR POLICE STATION,
PERAMBALUR DISTRICT.

5 THE OFFICER INCHARGE,
THALLAKULAM POLICE STATION,
MADURAI.

+1C.C. to M/S. J.KARUPPIAH Advocate on payment of
necessary charges SR NO.7463

Order

in
CRL.MP.NO.7013/2020

in
CRL.A.NO.229/2020

Date :10/11/2020

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MK:11/11/2020

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