



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

AND

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Crl.M.P. No. 7326 of 2020

in

Crl.A. No. 897 of 2019

Chinnasamy

..Petitioner

Vs.

The State rep. by
The Inspector of Police,
Kambainallur Police Station,
Dharmapuri District.
(Crime No. 278 of 2012)

..Respondent

Prayer: Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in the judgement dated 12.11.2019 made in S.C.No. 48 of 2014 on the file of Additional Sessions Court, Dharmapuri and enlarge the petitioner on bail pending disposal of C.A.No.897 of 2019.

For Petitioner .. Mr.V. Rajamohan

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The petitioner was arrayed as A1 in S.C. No. 48 of 2014 on the file of Additional Sessions Judge, Dharmapuri. The trial Court, by judgment dated 12.11.2019, convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo life imprisonment and to pay a fine of Rs.5000/-, in default to undergo one year simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the deceased and other witnesses went to the house of A3 in a car. Thereafter, a wordy quarrel ensued between them and the accused persons. Pursuant to the said quarrel, the accused persons had attacked the deceased and the prosecution witnesses. Insofar as the petitioner is concerned, he is stated to have stabbed the deceased with a knife on his chest, which



3. Learned counsel appearing for the petitioner submitted that this Court had granted suspension of sentence in favour of other accused in and by orders dated 20.07.2020 and 26.08.2020. This Court had even recorded the fact that there was a clash between the two groups and the victims came in a car with an intention to pick up a quarrel with the accused. P.W.19, who is the Investigation Officer, also says that a case had been registered in Crime No. 279 of 2012 at the instance of the accused against the prosecution witnesses in the present case for the offence punishable under Section 307 IPC. The petitioner and the co-accused Govindammal were also admitted in Government Hospital. Therefore, the case, as projected by the prosecution coupled with the arrest and recovery cannot be believed. Hence, the learned counsel submitted that the petition will have to be allowed.

4. Learned Additional Public Prosecutor appearing for the State submitted that the eye-witnesses clearly speak about the overt act attributed to the petitioner and P.W.s 1 to 9 and 20 are eye-witnesses and P.W.s 1 and 20 are injured witnesses. Therefore, the present petition will have to be dismissed.

5. The conviction was rendered more than a year ago. As indicated by this Court, this appears to be a clash between two groups. Admittedly, a case had been registered at the instance of the petitioner and the petitioner, along with co-accused Govindammal, had taken treatment in Government Hospital. Thus, the petitioner had also sustained injuries and he has been under incarceration for more than a year as of now. Therefore, the question to be considered is as to whether the petitioner has committed culpable homicide amounting to murder or not. Considering the above, 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 learned Judicial Magistrate, Arur 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/-

08/12/2020

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.



1 THE JUDICIAL MAGISTRATE,
ARUR

WEB COPY

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI (FOR INFORMATION)

3 THE ADDITIONAL SESSIONS JUDGE,
DHARMAPURI, DHARMAPURI DISTRICT.

4 THE ADDITIONAL SESSIONS COURT,
DHARMAPURI

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
KAMBAINALLUR POLICE STATION,
DHARMAPURI DISTRICT.

7 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

C.C. to M/S. V.RAJAMOHAN Advocate on payment of necessary
charges Sr.7997

Order

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Date :08/12/2020

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RVR 09/12/2020