

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.12.2020

Coram

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

CRL MP No.7442 of 2020
in Crl.A No.104 of 2020

Naveen Prasath ... Petitioner

Vs.

State Rep. by
Inspector of Police,
B-6, Peelamedu Police Station,
Coimbatore.
(Crime No. 972/2014) ... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in the judgement dated 03.01.2017 made in S.C.No. 59 of 2017 on the file of Sessions Court for Trial of Bomb Blast Cases, Coimbatore, pending disposal of C.A.No.104 of 2019.

For Petitioner .. Mr.T. Muruganantham

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

ORDER

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

The petitioner is the sole accused in S.C.No. 59 of 2016 on the file of Sessions Court for trial of Bomb Blast Cases, Coimbatore. The trial Court by judgment dated 03.01.2017 convicted the petitioner for the offence under Section 302 IPC and sentenced him to life imprisonment and to pay a fine of Rs.5000/- in default to undergo three months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The petitioner is the husband of the deceased. Pursuant to a wordy quarrel, the petitioner is said to have attacked the deceased with a hammer on the head and committed the offence.

3. Learned counsel for the petitioner submitted that the petitioner is under incarceration from 03.01.2017. Even assuming the case of the prosecution is true, it may not be a case punishable under Section 302 IPC. It is a fact that the petitioner attempted to commit suicide. This shows that no intention was in existence. Hence this petition will have to be allowed.

4. Learned Additional Public Prosecutor appearing for the State submitted that the evidence of P.W.s 1 and 2 is in tune with the case of the prosecution. This coupled with the recovery made the Trial Court to render conviction. Therefore, the present petition will have to be dismissed.

5. Admittedly, the petitioner has been under incarceration from 03.01.2017 onwards. The question for consideration is as to whether the offence under Section 302 IPC is made out or not. It is a case of single blow followed by the petitioner making an attempt to commit suicide. Thus, Section 8 of Indian Evidence Act might come into play with respect to the subsequent conduct which will have a bearing on the question as to whether there was an intention to commit murder or not. Thus, considering the above and the period of incarceration undergone by the petitioner, 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 Judicial Magistrate No.VI, Coimbatore 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/-
02/12/2020

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 SESSIONS COURT FOR TRIAL
OF BOMB BLAST CASES, COIMBATORE.

2 THE JUDICIAL MAGISTRATE NO.VI,
COIMBATORE

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
B-6, PEELAMADU POLICE STATION,
COIMBATORE.

C.C. to M/S.T.MURUGANANTHAM Advocate on payment of
necessary charges

Order

in
CRL.MP.NO.7442/2020
in
CRL.A.NO.104/2019

Date :02/12/2020

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MK:02/12/2020

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