

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 7632 of 2020

in CrI.A No. 858 of 2019

Ramasamy

... Petitioner

vs

State rep. by
The Inspector of Police,
Ramanatham Police Station,
Cuddalore District.

... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed upon the petitioner vide judgment dated 18.11.2019 in S.C.No. 399 of 2018 on the file of III Additional District and Sessions Judge, Cuddalore sitting at Vriddhachalam and enlarge the petitioner on bail pending disposal of CrI.A.No. 858 of 2019.

For Petitioner .. Mr.R.John Sathyan

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. 399 of 2018 on the file of III Additional District and Sessions Judge, Cuddalore, sitting at Vriddhachalam. By judgment dated 18.11.2019, the petitioner was convicted for the offence punishable under Section 302 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The petitioner is none other than the husband of the deceased. The case of the prosecution is that one Solaimuthu allegedly misbehaved with her which factum she did not disclose to the petitioner. However, it was informed to him by P.W.9. This made the petitioner to get upset. The petitioner was working abroad. On his return, he went to the place of the deceased and attacked her in the presence of the eye witnesses, namely, P.Ws 1 to 3. The other witnesses - P.Ws 4 and 5 turned hostile.

3.Learned counsel appearing for the petitioner submitted that it is the petitioner who admitted the deceased in the hospital, as per Ex.P8 and as deposed by P.W.17 the Doctor, who authored the said document. Therefore, there is no question of the petitioner escaping from the scene of occurrence followed by arrest and recovery. This falsifies the very case of the prosecution. The petitioner has been under incarceration from 18.11.2019 onwards. Thus, the learned counsel appearing for the petitioner submitted that the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that P.Ws 1 to 3 are the eye witnesses. The trial Court accepted the said evidence adduced by them while rendering the conviction and, therefore, no interference is required.

5.Prima facie, we are of the view that the judgment of the trial Court requires to be looked into in detail for the simple reason that it is the petitioner, who admitted the deceased in the hospital as deposed by the very same prosecution witness viz., P.W.17, who is the author of Ex.P8. Therefore, there is a serious doubt over the so-called arrest and recovery. The petitioner has been under incarceration from 18.11.2019 onwards. Even assuming, the occurrence is true, the further incidental question would be as to whether the offence under Section 302 IPC is made out or not. Thus, considering the above, and taking into consideration the period of incarceration, 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 District Munsif cum Judicial Magistrate, Thittagudi, Cuddalore 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/-

23/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

WEB COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, THITTAGUDI,
CUDDALORE

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE (FOR INFORMATION)

3 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
CUDDALORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

C.C. to M/S.R.JOHN SATHYAN Advocate on payment of necessary
charges

Order

in
CRL MP.No. 7632 of 2020
in
Crl.A No. 858 of 2019

Date :23/12/2020

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RVR 23/12/2020