

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. 8230 of 2020

in Crl.A No.386 of 2020

Muthu

... Petitioner

vs

State rep. By

... Respondent

The Inspector of Police,
Pochampalli Police Station,
Pochampalli,
Krishnagiri District.
(Cr.No.128 of 2016)

Petition filed under Section 389(1) of Cr PC to suspend the sentence passed by the Sessions Judge, Fast Track Mahila Court, Krishnagiri, Krishnagiri District in Sessions Case No.199 of 2016 dated 21.02.2019 pending disposal of the appeal.

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 is the sole accused in S.C.No. 199 of 2016 on the file of the Sessions Judge, Fast Track Mahila Court, Krishnagiri. He was accordingly convicted for the offence punishable under Sections 302 and 307 IPC by judgment dated 21.02.2019 and for the offence punishable under Section 302 IPC, he was sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one year rigorous imprisonment and for the offence punishable under Section 307 IPC, he was sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo one year rigorous imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The petitioner is none other than the son-in-law of the deceased. As per the version of the prosecution, she tried to interfere in the fight between the petitioner and P.W.1 (since turned hostile). The petitioner is stated to have attacked her with the knife causing a single fatal injury.

3.Learned counsel appearing for the petitioner submitted that the offence punishable under Section 302 IPC is not made out. The petitioner has been under incarceration from 21.02.2019 onwards. The eye witness has turned hostile and therefore, the reliance upon the evidence of P.W.2 being the other eye witness cannot be sustained and, therefore, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that P.W.1 has turned hostile. The trial Court rightly believed the evidence of P.W.2. This along with the evidence of P.W.13, the Doctor, who examined the deceased made the trial Court to render conviction and therefore, this petition will have to be dismissed.

5.The petitioner has been under incarceration from 21.02.2019 onwards. The occurrence is stated to have happened pursuant to a wordy quarrel. This is a case of single stab. Thus, 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 District Munsif cum Judicial Magistrate, Pochampalli 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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, POCHAMPALLI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
POCHAMPALLI POLICE STATION,
POCHAMPALLI,
KRISHNAGIRI DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 C.C. to M/S.V.RAJAMOHAN Advocate on payment of necessary
charges SR.NO.8336

Order

in
CRL MP.8230/2020

in
CRL A.386/2020

Date :17/12/2020

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