

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. 8459 of 2020

in Crl.A No.202 of 2020

Venkatesan

... Petitioner

vs

State by

... Respondent

The Inspector of Police,
Arakkonam Taluk Police Station,
Vellore District.
(Cr.No.195 of 2017)

Petition filed under Section 389(1) r/w 439 of Cr.P.C. to suspend the sentence passed by the II Additional District and Sessions Judge, Vellore District @ Ranipet, Vellore District in S.C.No.18 of 2018 dated 19.02.2020 pending disposal of the appeal.

For Petitioner .. Mr.E.Kannadasan

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 A1 in S.C.No. 18 of 2018 on the file of II Additional District and Sessions Judge, Vellore District @ Ranipet, Vellore District. The trial Court by judgment dated 19.02.2020 convicted the petitioner for the offence punishable under Sections 324 and 302 IPC. For the offence punishable under Section 324 IPC, imposed a fine of Rs.2000/-, in default, to undergo three months simple imprisonment and for the offence punishable under Section 302 IPC, sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. This petitioner is the son of A2. The dispute arose pursuant to the proprietary right over the land stated to be under the possession of this petitioner. When the petitioner tried to clear the land so as to utilize it for the purpose of cultivation, there arose a dispute between the two groups, pursuant to which, the occurrence is stated to have happened.

3. Learned counsel appearing for the petitioner submitted that apart from the period of incarceration both the petitioner and A2 sustained injuries. The doctor's report is also to the effect that the injuries are cut injuries. The trial Court has not considered these aspects. One of the eye witnesses, namely, P.W.5 has stated about this, though turned hostile. It is further submitted by the learned counsel appearing for the petitioner that insofar as A2 is concerned, this Court has suspended the sentence by order dated 14.12.2020. Thus, the suspension of sentence will have to be granted.

4. Learned Additional Public Prosecutor appearing for the State while reiterating the submission made while opposing the suspension of sentence submitted that the petitioner has committed the offence while A2 caught hold of the deceased. Thus, the petition will have to be dismissed.

5. This Court has already held that the trial Court could have taken adequate note of the injuries suffered by the petitioner, being cut injuries. Apart from the same, on the same footing, we have granted suspension of sentence for A2. The trial court has also convicted the petitioner by invoking Section 34 IPC. 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 Judicial Magistrate, Arakkonam, 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/-
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 II ADDITIONAL DISTRICT AND SESSIONS
JUDGE, VELLORE DISTRICT @ RANIPET,
VELLORE DISTRICT.

2 THE JUDICIAL MAGISTRATE,
ARAKKONAM.

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ARAKKONAM TALUK POLICE STATION,
VELLORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 C.C. to M/S.E.KANNADASAN Advocate on payment of necessary
charges SR.NO.8355

Order

in
CRL MP.8459/2020

in
CRL A.202/2020

Date :17/12/2020

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