

IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)
Tuesday, the Tenth day of March Two Thousand Twenty
PRESENT
The Hon`ble Mr Justice N. KIRUBAKARAN
and
The Hon`ble Mrs Justice R. HEMALATHA
CRIMINAL MISCELLANEOUS PETITION No.14714 of 2019
IN CRL.A.NO.701 OF 2019

D.MOORTHY [APPELLANT / PETITIONER / ACCUSED]

Vs

STATE REP.BY [RESPONDENT]
THE INSPECTOR OF POLICE,
T-8, AVADI POLICE STATION,
CHENNAI-600 054.
CR.NO.657/2017.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.701 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence and conviction against the appellant/accused on 21.06.2019 in S.C.No.126/17 by II Additional District Sessions Judge, at Tiruvallore at Poonamallee, pending disposal of the above CRL.A.NO.701 OF 2019 [IN CRL.MP.NO.14714 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.701 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.C.SRINIVASAN, Advocate for the petitioner and of M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by N.Kirubakaran, J)

This petition has been filed seeking suspension of sentence. The Petitioner was convicted and sentenced to undergo imprisonment for life and also to pay a fine of Rs.2,000/- in default to undergo one year rigorous imprisonment for the offence under Section 302 of IPC and sentenced to undergo rigorous imprisonment for six months and also to pay a fine of Rs.1,000/- in default to undergo three months rigorous imprisonment for the offences under Section 324 of IPC for having murdered one Mr.Sangili Pandiyan by virtue of judgment dated 21.06.2019 passed in S.C.No.126 of 2017 by the learned II Additional District Judge, Tiruvallur at Poonamallee.

2.Mr.C.Srinivasan, learned counsel appearing on behalf of the petitioner would submit that the petitioner is not a criminal and out of sudden provocation, because of abuse made by the deceased, the petitioner had murdered the deceased and therefore, lenient view has to be taken while considering this petition.

3.However, Mrs.G.Prabavathi, learned Additional Public Prosecutor (Cr1) would submit that there are direct eyewitnesses to the incident and based on the eyewitness's evidence only, the petitioner has been convicted.

4.This Court has considered the argument on either side. It is evident from the evidence of PW1 that the deceased has abused the wife of the convict derogatively out of which due to sudden provocation the convict attacked the deceased with weapon, leading to death of the deceased. It is also brought to the notice of this Court that the deceased is a criminal and he has many cases to his credit. Taking into consideration that because of the abuse directed against his wife, out of sudden provocation the petitioner attacked the deceased which led to the death of the deceased and the petitioner is not a regular offender, petitioner's sentence has to be suspended.

5.This Court is also taking into consideration the business of the convict viz., coconut vendor and if the convict is confined in jail his family will be put to irreparable loss. Therefore, this Court is inclined to suspend the sentence imposed on the petitioner.

6.Accordingly, substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing 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 the II Additional District Sessions Judge at Poonamallee and on further condition that the petitioner shall appear before the committal Court at 10.30 a.m on the first working day of every month till the disposal of the appeal.

7.The petition is ordered accordingly.

-sd/-
10/03/2020

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
SESSIONS JUDGE AT TIRUVELLORE
AT POONAMALLEE.

2 THE SUPERINTENDENT,
CENTRAL PRISON-I, PUZHAL JAIL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
T-8, AVADI POLICE STATION,
CHENNAI-600 054.

+2C.C. to M/S.C.SRINIVASAN Advocate on payment of necessary
charges SR NO.4706, 4725

Order

in
CRL MP.14714/2019
in
CRL.A.701/2019

Date :10/03/2020

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MK:11/03/2020