

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.M. SUNDRESH

AND

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

Crl.M.P. No. 13206 of 2019

in Crl.A. No. 608 of 2019

Kannan @ Madankumar @ Umai Kannan ..Petitioner

Vs.

State by ..Respondent
The Inspector of Police,
Cheyyur Police Station,
Kancheepuram District,
(Crime No. 388/2009)

Prayer: Petition filed under Section 389(1) of Cr PC to suspend the sentence of imprisonment imposed in the judgement dated 07.08.2019 made in S.C.No. 183 of 2010 on the file of Additional District and Sessions Court Chengalpattu and enlarge the petitioner on bail pending disposal of C.A.No. 608 of 2019.

For Petitioner .. Mr.T.R. Ravi

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. 183 of 2010 on the file of Additional District and Sessions Judge, Chengalpattu. The trial Court by judgment dated 07.08.2019 convicted the petitioner for the offence punishable under Sections 341 IPC and 302 IPC. For the offence under Section 341 IPC, the Trial Court sentenced the petitioner to undergo rigorous imprisonment for one month and to pay a fine of Rs.500/- in default to undergo a week's rigorous imprisonment and for the offence under Section 302 IPC, sentenced him to undergo life imprisonment together with a fine of Rs.5000/- carrying a default sentence of six months rigorous

imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the petitioner, pursuant to the quarrel, which emanated on the refusal of the deceased to part with a sum of Rs.100/-, attacked him with a wooden log and caused his death. P.W.s 3, 5 6 and 9 are eye-witnesses to the occurrence.

3. Learned counsel appearing for the petitioner submitted that even during the trial, the petitioner was inside the prison for 2 ½ years and now, 1 ½ years have elapsed after the judgment rendered by the Trial Court. Even as per the case of the prosecution, the overt act attributed against the petitioner is that he attacked the deceased with a wooden log pursuant to the refusal of the deceased to part with a sum of Rs.100/- on account of a quarrel. Therefore, the offence punishable under Section 302 IPC is not made out. Hence, the learned counsel submitted that the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that the petitioner has got one more case and in the present case, there are eye-witnesses to the occurrence. Therefore, the present petition will have to be dismissed.

5. As stated by the learned counsel for the petitioner, the petitioner has been under incarceration for nearly 4 years as of now. The overt act attributed against him is that he attacked the deceased with a wooden log, which was available in the nearby place, on his refusal to part with a sum of Rs.100/-, preceded by a quarrel. Thus, considering the above, and the period of incarceration of 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 learned Judicial Magistrate, Maduranthagam 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/-

08/12/2020

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 ADDITIONAL DISTRICT AND
SESSIONS COURT, CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE,
MADURANTHAGAM.

3 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
CHEYYUR POLICE STATION,
KANCHEEPURAM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

+1 C.C. to M/S.T.R.RAVI Advocate on payment of necessary
charges SR.NO.7977

Order

in
CRL MP.13206/2019

in
CRL A.608/2019

Date :08/12/2020

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