

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 14727 of 2019

in Crl.A No. 704 of 2019

Murugesan

... Petitioner

-vs-

The State

Rep.by The Inspector of Police,
Puduchatram Police Station,
Namakkal District.

... Respondent

Petition filed under Section 389(1) Cr.P.C. to suspend the sentence passed in Principal Sessions Judge, Namakkal in S.C.No.2 of 2016 dated 06.07.2019.

For Petitioner .. Mr.S.V.Karthikeyan

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 the sole accused in S.C.No. 2 of 2016 on the file of Principal Sessions Judge, Namakkal. The trial Court, by judgment dated 06.07.2019 convicted the petitioner for the offence punishable under Sections 302 and 201 r/w 302 IPC. For the offence punishable under Section 302 IPC, sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three years and six months simple imprisonment and for the offence punishable under Section 201 r/w 302 IPC sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for nine months and ordered to run the sentences concurrently. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that pursuant to a wordy quarrel occurred due to the deceased giving more money to the brother of the petitioner, the petitioner dashed his head on the wall and committed the offence. The petitioner thereafter took the body after cutting them into pieces and buried the same.

3. Learned counsel appearing for the petitioner submitted that the petition has been filed both on merit and medical ground. This is a case of circumstantial evidence. The deceased is none other than the father of the petitioner. The petitioner is 50 years old having ailment. Even the medical report furnished before this Court through the Superintendent, Central Prison would clearly show that the petitioner is suffering from Global Aphasia (Inability to understand and speak). He is under incarceration for more than one year. Thus, the petition will have to be allowed.

4. Learned Additional Public Prosecutor, on instructions, submitted that though it is true that the petitioner is having ailment as aforesaid, on facts, he is not entitled for suspension of sentence. The subsequent conduct of the petitioner after the occurrence will have to be seen. The evidence of P.W.1 and P.W.6 was taken into consideration by the trial Court while rendering conviction. Thus, the petition will have to be dismissed.

5. Though we do not find any reason to suspend the sentence on merit, we are inclined to consider the petition filed on the medical ground. The communication dated 06.10.2020, sent by the Assistant Surgeon, Central Prison Dispensary, Coimbatore to the Superintendent, Central Jail, Coimbatore clearly indicates the condition of the petitioner. He is 50 years old suffering from Global Aphasia (Inability to understand and speak). There is inability on his part to understand and speak. Therefore, certainly he needs external care apart from constant treatment. The treatment that is being administered to the petitioner is only an oral medication. We further note that the petitioner has been under incarceration for more than one year as of now. Thus, taking note of 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 II, Namakkal 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/-

09/10/2020

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

TRUE COPY

TO

1 THE PRINCIPAL SESSIONS JUDGE
NAMAKKAL.

2 THE JUDICIAL MAGISTRATE,
NO.II, NAMAKKAL.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PUDUCHATRAM POLICE STATION,
NAMAKKAL DISTRICT.

6 THE ASSISTANT SURGEON
CENTRIAL PRISON DISPENSARY,
COIMBATORE.

7 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S.S.V.KARTHIKEYAN Advocate on payment of necessary
charges

Order

in
CRL MP.14727/2019

in
CRL A.704/2019

Date :09/10/2020

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