

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Tenth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL MISCELLANEOUS PETITION No.13676 of 2019

IN CRL.A.NO.637 OF 2019

M.RAJA

[PETITIONER]

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
VIRUTHAMPET POLICE STATION,
VIRUTHAMPET,
VELLORE DISTRICT,
CRIME NO.158/2014.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.637/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the learned Honourable Additional District and Sessions Judge (FTC) Vellore, Vellore District in S.C.No.161/2017 dated 29.04.2019 against the petitioner and enlarge the petitioner on bail pending disposal of the appeal.[crl.MP.NO.13676/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.637/2019 on the file of the High Court and upon hearing the arguments of M/S. V.RAJAMOHAN, Advocate for the petitioner and of MRS.M.PRABHAVATHI ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

[Order of the Court was made by **R.SUBBIAH, J**]

The petitioner faced trial in S.C. No.161 of 2017 on the file of learned Judicial Magistrate No.3, Vellore. The Trial Court under judgment dated 29.04.2019, convicted the petitioner and sentenced him as follows:

Offence	Sentence
302 IPC	Life imprisonment and fine of Rs.1,000/- i/d one year R.I.
302 IPC	R.I. For 7 years and fine of Rs.1,000/- i/d one year R.I.

Hence, petitioner seeks suspension of sentence.

2. The case of the prosecution is that the accused was working as Machine Operator under one Selvam, who is the owner of Samundeeswari Hallow Bricks Company at Thandala Krishnapuram. The deceased Rajesh was the son of Selvam and he had assisted his father in the said company. While so, one year prior to 14.05.2014, the accused borrowed Rs.10,000/- from Selvam and he returned only Rs.1,000/- to him. Therefore, the said Rajesh insisted him to return the remaining amount. On 14.05.2014, due to the said enmity, the accused with an intention to cause the death of Rajesh, committed the offence of murder by forcibly hitting on his head repeatedly with a stone and has misappropriated gold dollar chain weighing 2 sovereigns, which was worn by Rajesh and a cash of Rs.250/- from the pocket of Rajesh at the time of murder. In order to screen himself from the legal punishment for the offence of murder and for the offence of dishonest misappropriation of property from the deceased, the accused put the body of the deceased into the well of witness Sivalingam and thereby committed the above offence.

3. Learned counsel for the petitioner submits that there are several infirmities and inconsistencies found in the prosecution case and that there are contradictions in the material particulars between the evidence of the prosecution witnesses and that there is no sufficient evidence to connect the accused with the crime. Learned counsel informs that in order to establish the case, the Doctor, who conducted the post mortem, was not examined and only Post Mortem Certificate was marked through the Investigating Officer. Learned counsel for the petitioner further submits that the petitioner has been confined at Central Prison, Vellore for the past nine months and he has paid the fine amount. Submitting as above, learned counsel prays this Court to suspend the sentence passed against the petitioner.

4. Learned Additional Public Prosecutor submitted that the chain worn by the deceased was with the accused at the time of arrest and the same was identified by P.W.1 in the course of Trial which was corroborated by the Investigating Officer and the Village Administrative Officer and the same would suffice to prove the above offence. Therefore, she vehemently opposes to grant suspension of sentence to the petitioner.

5. Considering the facts and circumstances of the case and in view of the fact that the petitioner has been in custody for nine months, that there are several infirmities in the prosecution case and there are arguable points involved in the appeal and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of

Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.3, Vellore and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

10/02/2020

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 JUDICIAL MAGISTRATE,
NO.3, VELLORE

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VIRUTHAMPET POLICE STATION,
VIRUTHAMPET, VELLORE DISTRICT,

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

+1 C.C. to M/S. V.RAJAMOHAN Advocate on payment of necessary charges SR.NO. 2593

WEB COPY

Order

in

CRL MP.13676/2019

IN CRL.A.NO.637 OF 2019

Date :10/02/2020

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RD 11/02/2020