

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Eighth 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.16636 OF 2019

IN CRL.A.NO.778 OF 2019

SRIDHAR

[PETITIONER / ACCUSED]

Vs

STATE REPRESENTED BY [RESPONDENT]
INSPECTOR OF POLICE,
AMBATTUR ESTATE POLICE STATION,
THIRUVALLUR DISTRICT.
CRIME NO.439/2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.778 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioners in S.C.No.241/2016 passed by Learned III Additional District Sessions Judge, Poonamallee dated 13.09.2019 and enlarge him on bail pending above CRL.A.NO.778 OF 2019 [IN CRL.MP.NO.16636 OF 2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.778 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.S.SURESH, 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 R.SUBBIAH, J]

Petitioner/A5 along with four others faced trial in S.C.No.241 of 2016 on the file learned III Additional Sessions Judge, Poonamallee. Trial Court, under judgment dated 13.09.2019, convicted the petitioner for offences u/s.148, 341 and 302 r/w 149 IPC and sentenced to life imprisonment and fine of Rs.5,000/- i/d 8 months R.I. for offence u/s.302 r.w 149 IPC, 1 month S.I. for offence u/s.341 IPC and 2 years R.I. for offence u/s.148 IPC. Hence, petitioner seeks suspension of sentence.

2. The case of the prosecution is that on 30.09.2015 at about 01.15 p.m., due to previous animosity, accused formed an unlawful assembly, indiscriminately assaulted the deceased using a knife and caused his death. The overt act attributed against the petitioner/A5 is that he stood as a guard with chopping knife so as to prevent other persons approaching A1 to A4.

3. Learned counsel for petitioner submits that the name of the petitioner/A5 did not find place in the First Information Report. PW-18, Investigating Officer, in cross, admitted that in the First Information Report, names of three accused persons and one another were informed. There is no mention about fifth accused. Further, PW-1/de facto complainant, in cross, admitted that he does not know against whom he preferred the complaint. Learned counsel submits that the petitioner is presently confined at Central Prison, Puzhal, Chennai. Learned counsel submits that there are several infirmities and inconsistencies found in the prosecution case. It is contended that there are contradictions in the material particulars between the evidence of the prosecution witnesses. Submitting as above, learned counsel prays for suspension of sentence imposed against petitioner/A5.

4. Learned Additional Public Prosecutor vehemently opposes to grant suspension of sentence to the petitioner/A5.

5. Considering the facts and circumstances of the case and in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner 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/A5 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, Ambattur 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/-

28/02/2020

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

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Sub-Assistant Registrar (Statistics/C.S.)

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High Court, Madras - 600 104.

TO

1 THE III ADDITIONAL DISTRICT
SESSIONS JUDGE, POONAMALLEE.

2 THE JUDICIAL MAGISTRATE,
AMBATTUR.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
AMBATTUR ESTATE POLICE STATION,
THIRUVALLUR DISTRICT.

+1C.C. to M/S.S.SURESH Advocate on payment of necessary
charges SR NO.4168

Order

in
CRL MP.16636/2019

in
CRL.A.778/2019

Date :28/02/2020

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MK:02/03/2020

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