



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighth day of January Two Thousand Twenty

WEB COPY

PRESENT

The Hon`ble Mr Justice R.SUBBIAH

and

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL MISCELLANEOUS PETITION No.17159 of 2019

IN CRL.A.NO.805 OF 2019

1 ANBARASAN
2 SUGANTHI

[PETITIONERS]

Vs

STATE BY
THE INSPECTOR OF POLICE,
BHUVANAGIRI POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.202 OF 2012.

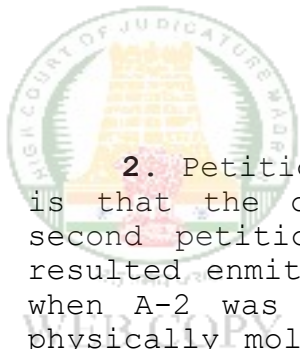
[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.805/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioners on 05.09.2017 in S.C.No.101/ on the file of the II Additional District and Sessions Court, Chidambaram, Cuddalore District and release the petitioners on bail till the disposal of the criminal appeal.[CRL.MP.NO.17159/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.805/2019 on the file of the High Court and upon hearing the arguments of M/S. P.PUGALENTHI, 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 this Court was made by **R.SUBBIAH, J.**]

Petitioners/A1 and A2 faced trial in S.C.No.101 of 2013 on the file learned II Additional District and Sessions Judge, Chidambaram, Cuddalore District. Trial Court, under judgment dated 05.09.2017, convicted the petitioners of the offence under Section 302 of IPC and sentenced them to undergo Life Imprisonment and to pay a sum of Rs.1,000/-, in default to undergo 6 months Simple Imprisonment. Challenging the said conviction and sentence, the petitioners/accused preferred the present appeal and pending appeal, they had filed the present petition seeking suspension of their substantive sentence of imprisonment.



2. Petitioners are husband and wife. The case of the prosecution is that the deceased was making continuous sexual torture to the second petitioner/A-2 inspite of objections raised by her, which resulted enmity between them. While so, on 10.05.2012, at 7.30p.m., when A-2 was near a river bank, the deceased made an attempt to physically molest her. At that time, A-1 took a bottle and hit the deceased on his head, as a result of which, the deceased lost his balance and fell down and thereafter, with the help of lungi, A-1 and A-2 strangulated the deceased and caused his death.

3. Learned counsel appearing for the petitioners/accused submitted that unable to tolerate the sexual torture given by the deceased, A-1 [husband] and A-2 [wife] committed the alleged offence. Learned counsel submits that the petitioners are having three minor children and they are in prison for more than two years. Learned counsel further 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. There is no specific overtact against the second petitioner/A-2.

4. Learned Additional Public Prosecutor appearing for the State vehemently opposes to grant suspension of sentence to the petitioners.

5. Considering the facts and circumstances of the case and in view of the fact that the second petitioner/A-2 has been in custody for more than 2 years and she has to take care of her three minor children, 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 second petitioner/A-2 herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment of the second petitioner/A-2 alone is suspended and the second petitioner is directed to be enlarged on bail on condition that the second petitioner/A-2 shall execute 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 and Sessions Court, Chidambaram, Cuddalore and on further condition that the second petitioner/A-2 shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m. pending appeal.



7. As far as the first petitioner/A-1 is concerned, this Court is of the considered view that the first petitioner/A-1 is not entitled for the relief of suspension of sentence and hence, this petition is dismissed as against him.

WEB COPY

-sd/-

08/01/2020

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
AND SESSIONS JUDGE, CHIDAMBARAM,
CUDDALORE DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE SUPERINTENDENT,
WOMEN PRISON, CUDDALORE

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
BHUVANAGIRI POLICE STATION,
CUDDALORE DISTRICT.

+1 C.C. to M/S. P.PUGALENTHI Advocate on payment of necessary
charges SR.NO. 369

Order

in
CRL MP.17159/2019

IN CRL.A.NO.805 OF 2019

Date :08/01/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 10/01/2020