

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL.MP. No.18548 of 2019

in CRL.A.No.877 of 2019

1.Balu

2.Saraswathi

... Petitioners

-vs-

State Represented by
The Inspector Of Police
Thatcham Pattu Police Station
Veraiyoor Taluk,
Thiruvannamalai District.

... Respondent

Criminal Miscellaneous Petition filed under Section 389(1) of Criminal Procedure Code, to suspend the sentence imposed by the Principal District and Sessions Judge, Thiruvannamalai, Thiruvannamalai District in S.C.No.97 of 2011 dated 11.10.2018 against the petitioners and enlarge the petitioners on bail.

For Petitioner : Mr.V.Rajamohan

For Respondent : Ms.M.Prabhavathi,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by M.M.SUNDRESH, J.]

The first petitioner has been arrayed as A1 and the second petitioner has been arrayed as A2. The petitioners are the son and mother and thus incidentally, the husband and mother in law of the deceased. They have been charged for the offence punishable under Section 302 r/w 34 IPC in S.C.No.97 of 2011 on the file of the Principal District and Sessions Judge, Thiruvannamalai, Thiruvannamalai District. The trial Court, by judgment dated 11.10.2018, convicted the petitioners for the offence punishable under Section 302 r/w 34 IPC and sentenced them to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo two years rigorous imprisonment Seeking to suspend the sentence, the present petition has been filed.

2. The case of the prosecution is that pursuant to a wordy quarrel between the deceased and A1, she was set on fire by committing the offence. A1 was stated to be in inebriated mood.

3. Learned counsel appearing for the petitioners submits that P.Ws. 1 and 2 who are the daughters of A1 have given a different version in their cross-examination. Therefore, they being the only eye witnesses, the conviction ought not to have been rendered as against the petitioners. The dying declaration given by the deceased under Ex.P16 cannot be relief upon as it involves lot of contradictions. It has not been corroborated by any other evidence.

4. Learned Additional Public Prosecutor submits that P.Ws. 1 and 2 being the daughters of the first petitioner have deposed in the cross-examination in favour of the accused. Therefore, not much credence can be given to the same. The dying declaration inspired the confidence of the Court. This coupled with the medical evidence made the trial Court to render the conviction. Hence this petition will have to be dismissed.

5. Even as per the version of the prosecution, it is the first petitioner, who is stated to have committed the offence while the role of the second petitioner is rather limited. The second petitioner is the mother of the first petitioner who picked up the quarrel on that date in an inebriated mood. At this juncture, learned counsel appearing for the petitioners submitted that the petition filed on behalf of the first petitioner can be dismissed as not pressed. Accordingly, this petition stands dismissed as not pressed insofar as the first petitioner/A1 is concerned.

6. In the light of aforesaid discussion coupled with the fact that the second petitioner is the mother of the first petitioner and having different overt act and after considering the evidence adduced particularly that of P.Ws. 1 and 2, we are inclined to suspend the sentence. Accordingly, the substantive sentence of imprisonment alone is suspended insofar as the second petitioner/A2 is concerned on condition that she executes her own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the The Superintendent, Special Prison for Women, Vellore, and on further condition that she shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

29/06/2020

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.I, THIRUVANNAMALAI

2 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, THIRUVANNAMALAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR FO POLICE,
THATCHAM PATTU POLICE STATION,
VERAIYOOR TALUK,
THIRUVANNAMALAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
VELLORE.

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

Order

in
CRL MP.18548/2019

in CRL.A.No.877 of 2019

Date :29/06/2020

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