

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH
and
The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 18551 of 2019
in Crl.A No. 879 of 2019

1.Saravanan
2.Suganya

.... Petitioners

vs

State by
The Inspector of Police,
R3, Ashok Nagar Police Station,
Chennai.

.... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence passed in S.C.No. 165 of 2016, dated 14.03.2018 by the Court of Sessions Judge, Sessions Judge Mahila Court, Chennai, Mahalir Nethimandram, Chennai District pending disposal of the appeal.

For Petitioners .. Mr.R.Thamaraiselvan

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

ORDER

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

The petitioners have been arrayed as A1 and A2 in S.C.No. 165 of 2016 on the file of the Sessions Judge, Mahila Court, Chennai. There are three accused. Since the third accused is a juvenile, the case was split up. The trial Court by judgment dated 14.03.2018 convicted (i) the first petitioner/A1 for the offence punishable under Sections 342, 302 and 379 IPC and for the offence punishable under Section 342 IPC, sentenced him to undergo six months simple imprisonment, for the offence punishable under Section 302 IPC, sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment and for the offence punishable under Section 379 IPC, sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.1000/-, in default, to undergo three months simple

imprisonment and (ii) the second petitioner/A2 for the offence punishable under Sections 342, 302 r/w 34 and 379 IPC. For the offence punishable under Section 342 IPC, sentenced her to undergo six months simple imprisonment, for the offence punishable under Section 379 IPC, sentenced her to undergo two years simple imprisonment and to pay a fine of Rs.1000/, in default, to undergo three months simple imprisonment and for the offence punishable under Section 302 IPC, sentenced her to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the petitioners along with A3 were staying in a community hall. The deceased was selling Idlis. The accused persons attacked the deceased inside the room and committed the offence while taking her jewels. The trial Court convicted them on 14.03.2018 holding that the charges are proved.

3. Learned counsel appearing for the petitioners submitted that as against A1, this petition may be dismissed as withdrawn and he has also made an endorsement to that effect. Accordingly, this petition is dismissed as withdrawn insofar as A1 alone is concerned.

4. A2 is the wife of A1. Learned counsel appearing for the petitioners further submitted that it is a case of circumstantial evidence. She has been under incarceration for more than five years. The trial Court convicted them primarily relying upon the evidence of P.W.6 who is the pawn broker. There are available points in the appeal. Thus, the suspension of sentence petition will have to be allowed.

5. Learned Additional Public Prosecutor appearing for the State submitted that the trial Court accepted the evidence of P.Ws 1 and 6. After finding the foul smell emanating from the place of occurrence, it was broke open and found the deceased body in a decomposed state. P.W.6 is the pawn broker, with whom the jewels were pledged by the accused persons. The Test Identification Parade was conducted and the witnesses have identified both the petitioners. Therefore, the present petition will have to be dismissed.

6. As stated, it is a case of circumstantial evidence. The second petitioner/A2 being a lady is stated to be under incarceration for more than five years. Thus, considering the above, particularly the period of incarceration, we are inclined to suspend the sentence insofar as A2 alone is concerned.

7. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that the second petitioner/A2 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 XVII Metropolitan Magistrate, Saidapet, Chennai 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/-

14/12/2020

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 METROPOLITAN MAGISTRATE NO.XVII,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SESSIONS JUDGE,
MAHILA COURT, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
R3-ASHOK NAGAR POLICE STATION,
CHENNAI.

+1C.C. to M/S.R.THAMARAISELVAN Advocate on payment of
necessary charges SR NO.8153

Order

in
CRL.MP.NO.18551/2019
in
CRL.A.NO.879/2019

Date :14/12/2020

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MK:15/12/2020



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