

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice N. KIRUBAKARAN

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.18147 of 2019

IN CRL.A.NO.846 OF 2019

KAMALESAN

[PETITIONER]

Vs

THE STATE OF TAMILNADU REP.BY ITS., [RESPONDENT]
INSPECTOR OF POLICE, PENNAGARAM
POLICE STATION, PENNAGARAM,
DHARMAPURI DISTRICT.
CR.NO.32 OF 2018.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.846/2019 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence imposed in the Judgment dated 12.11.2019 in Session case No.96 of 2018 on the file of the learned Additional Sessions Judge, Dharmapuri release the appellant/accused no.4 on bail pending disposal of the appeal.[CRL.MP.NO.18147/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.846/2019 on the file of the High Court and upon hearing the arguments of M/S.R.SELVAKUMAR 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 N.KIRUBAKARAN, J.)

This petition has been filed to suspend the sentence imposed on the petitioner by Judgement dated 12.11.2019 made in S.C.No.96 of 2018 for the offence under Sections 302 read with 34 of Indian Penal Code by which the petitioner along with three others were convicted with life imprisonment along with other sentence.

2.The case of the prosecution is that due to the enmity regarding the misbehaviour of the deceased with Al's daughter viz., Kavya, the convict along with three others had beaten the deceased with wooden logs and with hands and murdered him.

3.The learned Counsel for the petitioner submitted that even in the Judgement of the trial Court, it has been pointed out that there are some loopholes in the investigation. He further submitted that arguable points are involved in this case and sought for allowing this petition.

4.However, the learned Additional Public Prosecutor submitted that it is a case of cruel murder committed by the petitioner along with three other convicts. The deceased was beaten with wooden logs and with hands till his death and therefore, the sentence cannot be suspended.

5.Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents and perused the materials on record.

6.As rightly pointed out by the learned Counsel for the petitioner, in Paragraph No.14 of the Judgement, the trial Court has observed that the investigation methods are having some loopholes and the motive was not properly explained and the confession and the recoveries are not supported by scientific evidence and further, the inquest is not matched with post-mortem certificate and thus, many contradictions are involved in the prosecution case. However, based on the evidence of PW1 to PW3, the trial Court convicted the accused.

7.Hence, as stated in Paragraph No.14 (vi) of the Judgement, there are many loopholes in the investigation and it is seen that arguable points are there in this appeal. In view of the above, the substantive sentence of the imprisonment alone is suspended and the petitioner is directed to be released on bail with the following conditions:

(i) The Petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Pennagaram.

(ii) The Petitioner must also appear before the Judicial Magistrate, Pennagaram on the first working day of every month and sign until further orders.

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-sd/-
12/03/2020

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,
PENNAGARAM

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PENNAGARAM POLICE STATION,
PENNAGARAM,
DHARMAPURI DISTRICT.

5 THE ADDITIONAL SESSIONS JUDGE
DHARMAPURI

6 THE SUPERINTENDENT,
CENTRAL JAIL, VELLORE

+2 C.C. to M/S.R.SELVAKUMAR Advocate on payment of necessary
charges SR.NO. 4918

Order

in
CRL MP.18147/2019

IN CRL.A.NO.846 OF 2019

Date :12/03/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 13/03/2020

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