

In the High Court of Judicature at Madras

Dated : 08.6.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

And

The Honourable Mrs.Justice PUSHPA SATHYANARAYANA

Crl.M.P.No.19198 of 2019 in Crl.A.No.918 of 2019

1.Sakthivel
2.Murugan
3.Arun

...Petitioners

Vs

The State of Tamil Nadu, rep.
By The Inspector of Police,
Pennagaram Police Station,
Pennagaram, Dharmapuri District.

...Respondent

APPEAL under Section 374(2) of the Criminal Procedure Code to set aside the judgment dated 12.11.2019 made in S.C.No.96 of 2018 on the file of the learned Additional Sessions Judge, Dharmapuri.

PETITION under Section 389(1) of the Criminal Procedure Code to suspend the execution of sentence imposed in the judgment dated 12.11.2019 made in S.C.No.96 of 2018 on the file of the learned Additional Sessions Judge, Dharmapuri and release the petitioners on bail pending the appeal.

For Petitioners : Mr.R.Selvakumar

For State : Ms.Prabhavathi Ram, APP

ORDER

(Order of the Court was made by T.S.SIVAGNANAM, J.)

This miscellaneous petition has been filed by A1 to A3 in S.C.No.96 of 2018 on the file of the learned Additional Sessions Judge, Dharmapuri. The Trial Court convicted A1 to A4 for the offence under Section 302 read with Section 34 of the Indian Penal Code and sentenced them to undergo life imprisonment for the above said offences with a fine amount of Rs.5,000/- each and in default, to undergo simple imprisonment for one year for each accused. The miscellaneous petition has been filed to suspend the sentence imposed

2. We have heard Mr.R.Selvakumar, learned counsel for the petitioners and Ms.Prabhavathi Ram, learned Additional Public Prosecutor appearing for the State.

3. At the outset, we need to point out that in a separate appeal in Crl.A.No.846 of 2019 filed by A4, a petition was moved to suspend the sentence in Crl.M.P.No.18147 of 2019 and the Hon'ble Division Bench of this Court, by order dated 12.3.2020, suspended the sentence. After elaborately hearing the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the State, we find that the Sessions Court, in paragraph 14(vi) of its judgment, observed that in the case on hand, the investigation methods were having some loopholes, that the motive was not properly explained, that the confessions and recoveries were not supported by scientific evidence and that the inquest did not match with the post mortem certificate. Therefore, there are so many contradictions in the entire process. Though the Sessions Court came to such a conclusion, it convicted the accused solely based on the evidence of PW1 to PW3. PW1 is the mother of the deceased; PW2 is the sister of the deceased; and PW3 is the brother-in-law of the deceased.

4. The learned counsel for the petitioners has drawn the attention of this Court to the inconsistencies in the evidence of PW1 to PW3 qua the post mortem report. Therefore, it is submitted that there are ample grounds to suspend the sentence.

5. Per contra, the learned Additional Public Prosecutor vehemently opposes the prayer sought for and has drawn the attention of this Court to paragraph 14(viii) of the judgment of the Trial Court and submits that the evidence of PW1 to PW3 narrates the death of Perumal happened due to the common intention.

6. In paragraph 14(viii) of the judgment, though the Sessions Court holds that the evidence of PW1 to PW3 could be relied upon to conclude that the death of Perumal occurred due to common intention, in the same paragraph, it observed that the Investigating Officer has not been able to place all the evidence against the accused. Thus, considering the inconsistencies pointed out, which were also recorded in the impugned judgment, we are of the considered view that the substantive sentence of imprisonment alone can be suspended, however, subject to conditions.

7. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are directed to be released on bail on each of them executing 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 Judicial Magistrate, Pennagaram and on further condition that they shall report before the Judicial Magistrate,

Pennagaram, once in two weeks on Monday, until further orders.

-sd/-
08/06/2020

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 ADDITIONAL SESSIONS JUDGE,
DHARMAPURI.

2 THE JUDICIAL MAGISTRATE,
PENNAGARAM.

3 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI. [FOR INFORMATION]

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

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL JAIL, VELLORE.

C.C. to M/S.R.SELVAKUMAR Advocate on payment of necessary charges

Order

in
CRL MP.19198/2019

in
CRL A.918/2019

Date :08/06/2020

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TA-11/06/2020