



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Monday, the Thirteenth day of December Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos.1721 & 5930 of 2021

in CRL.A.Nos.70 & 265/2021

PRABHU [PETITIONER/APPELLANT IN CRL.A.No.70/2021]
(ORIGINAL NAME P.VENKATACHALAM)

1 JAGATHESAN [PETITIONERS/APPELLANT IN CRL.A.No.265/2021]
2 SOUNDARRAJAN
3 RAJESHKUMAR

Vs

THE STATE OF TAMIL NADU REP. [RESPONDENT IN BOTH THE PETITIONS]
BY, THE INSPECTOR OF POLICE,
JEDARPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.138 OF 2018.respectively

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.Nos.70 & 265/2021 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence passed by the Honble Additional District and Sessions Judge, Namakkal on 08.01.2021 in S.C.No.201 of 2018 against the above said pending disposal of the above CRL.A.Nos.70 & 265/2021.

Order : These petitions coming on for orders upon perusing the petitions and the Memorandum of Grounds in CRL.A.Nos.70 & 265/2021 on the file of the High Court and upon hearing the arguments of M/S.ANANTHA NARAYANAN, Advocate for the petitioners(IN BOTH THE PETITIONS) and of MR.S.SUGENDRAN, Govt. Advocate (Crl. Side) on behalf of the Respondent(IN BOTH THE PETITIONS) the court made the following order:-

These Criminal Miscellaneous Petitions have been filed by the petitioners/accused, seeking suspension of sentence of imprisonment imposed by the order dated 08.01.2021 in S.C.No.201 of 2018 passed by the Additional District and sessions Judge, Namakkal.



2. The learned Senior counsel appearing for the petitioners/appellants would submit that admittedly the deceased and the accused are friends and they are working together as masons. On the fateful day i.e., on 09.06.2018, all accused and the deceased were consuming liquor together and the mobile phone of the accused No.1 was in possession of the deceased. On the same day afternoon, when all the accused and the deceased wanted to go out and consume liquor, the defacto complainant who is the wife of the deceased did not allow the deceased to go along with others. Thereafter all the accused went to kandipalayam to consume liquor and later the deceased left home, and he had handed over the mobile phone to the accused No.1 and left the place. Later the father of the deceased contacted the accused No.1 through mobile phone and enquired about the whereabouts of the deceased. The Accused No.1 had informed that the deceased was not there. Again the defacto compensation contacted the accused no.1 and enquired about the whereabouts of the deceased and due to which, there arose a dispute between them and Accused No.1 abused the defacto complainant with filthy language and the accused had returned home. Thereafter accused no.1 complained the same to the deceased about the manner in which his wife abused him and there had been a quarrel between them and the incident had occurred during the quarrel.

3. The learned counsel would submit that no weapons were used in the incident and the allegations against the petitioners / appellants are that they assaulted the deceased with hands. In fact, the occurrence had happened during quarrel. There is no intention to kill the deceased.

4. According to the learned counsel for the Petitioners/accused, there are arguable points available in the above criminal appeals, which are not likely to be taken for final hearing in the near future and the Petitioners/ accused have got a fair chance of succeeding in the appeals. Further, the petitioners/accused are in custody of the respondent Police for past 11 months. Hence, the sentence imposed against the Petitioners/Accused may be suspended.

5. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that during the wordy quarrel, the petitioners/accused assaulted the deceased with hands, due to which the deceased sustained injuries and thereafter he was taken to a private hospital, where it was declared as he was dead.

6. Heard the learned counsel for the petitioners/accused and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.



7. The trial Court finding that the incident had happened due to quarrel and the prosecution has proved beyond all reasonable doubts and convicted the petitioners/accused under Section 304 Part II of I.P.C., and sentenced them to undergo 10 years Rigorous Imprisonment. In this case, the incident had happened during a brawl between friends. No weapons have been used and the petitioners are stated to have assaulted with hands.

8. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the substantive sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal appeal, the reliefs of suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioners 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 Additional District and Sessions Judge, Namakkal.
- ii. The petitioners shall appear before the Trial Court on the first and third Monday of every English Calendar month at 10.30 a.m., until further orders. If Monday is holiday, the petitioner shall appear before the trial Court on the next working day.

9. The Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-

13/12/2021

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 DISTRICT AND
SESSIONS JUDGE, NAMAKKAL

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 THE INSPECTOR OF POLICE,
JEDARPALAYAM POLICE STATION,
NAMAKKAL DISTRICT.



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.ANANTHA NARAYANAN Advocate on payment of necessary charges

Order

in
CRL MP.Nos.1721 & 5930/2021

in CRL.A.NOS.70 & 265/2021

Date :13/12/2021

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

RVR 13/12/2021