

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirtieth day of April Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.5331 of 2021

in CRL.A.NO.191 OF 2021

1 ASHOKKUMAR

[PETITIONERS]

2 SARAVANAN

Vs

THE STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
TALUK POLICE STATION,
MANNARGUDI, TIRUVARUR DISTRICT.
CR.NO.70 OF 2018.

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence of 5 years rigorous imprisonment under u/s.436 of IPC r/w 4(1) of Tamil nadu Prevention of Property (Damage and Loss) Act,1992 imposed by the trial court on 11.02.2021 in SC.No.44 of 2019 on the file of the District and Sessions Court, Tiruvarur till the disposal of the criminal appeal preferred by the petitioners/appellants.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.A.UDHAYACHANDIRAN Advocate for the petitioner and of MR.K.MATHAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This petition has been filed seeking to suspend the sentence imposed on the petitioners by judgement dated 11.02.2021 in S.C.No.44 of 2019, on the file of the Principal and Sessions Judge, Tiruvarur.

2. According to the petitioners, the respondent/police registered a case in Crime No.70 of 2018 against the petitioners for the offences under Section 436 of IPC r/w 4 (1) of Tamil Nadu Prevention of Property (Damage and Loss) Act, 1992. After investigation the respondent/police laid a charge sheet before the learned Principal and Sessions Judge, Tiruvarur.

3. After trial, the learned Principal Sessions Judge, Tiruvarur, convicted and sentenced the petitioners to undergo 5 years rigorous imprisonment under Section 436 of IPC r/w 4 (1) of Tamil Nadu Prevention of Property (Damage and Loss) Act, 1992. Challenging the said Judgment of conviction and sentence, Criminal Appeal has been filed along with the above miscellaneous petition, seeking suspension of sentence.

4. The learned counsel for the petitioners/appellants would submit that the petitioners are innocent and they never committed or involved in any offences as alleged in the charges framed against them. It is further submitted that this is a purely a case of self infliction of setting fire to his own house by the defacto complainant himself or his associates with the criminal intention to foist a false complaint against the petitioners/appellants. He would further submit that there is a substantive ground to succeed in the appeal. Therefore, he prays to grant suspension of sentence to the petitioners.

5. The learned Government Advocate (Criminal Side) would submit that the first accused and the defacto complainant-Dhanapal had joined together and sold their share of ancestral property to the second accused, but the share amount of Rs.1,00,000/- of the defacto complainant-Dhanapal was not given to him, and hence, the said Dhanapal lodged a complaint before the Police Station. While being so, the accused joined together had set fire on the residential hut of the complainant by pouring kerosene and caused damage to the tune of Rs.1,00,000/-. If the petitioners are released on bail, there is a possibility of threatening the defacto complainant.

6. Heard the learned counsel for the petitioner/appellant and the learned Government Advocate (Criminal Side) and perused the materials available on record.

7. According to the petitioners, the case was registered against the petitioners for the offence under Section 436 of IPC r/w 4 (1) of Tamil Nadu Prevention of Property (Damage and Loss) Act, 1992, based on the false complaint given by the defacto complainant. After trial, the learned Judge found that petitioners were guilty for the offence under Section 436 of IPC r/w 4 (1) of Tamil Nadu Prevention of Property (Damage and Loss) Act, 1992. The prosecution has established its case against the petitioners for the charged offences. The trial Court, after considering the entire materials, found that the accused/petitioners committed offence and convicted and sentenced as above.

8. Given the nature and gravity of offence committed by the accused, this Court is not inclined to suspend the sentence. Finding no merits, this miscellaneous petition shall stand dismissed.

-sd/-

30/04/2021

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 PRINCIPAL AND SESSIONS JUDGE, TIRUVARUR

2 THE INSPECTOR OF POLICE,
TALUK POLICE STATION, MANNARGUDI,
TIRUVARUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
TIRUCHIRAPPALLI

5 THE SECTION OFFICER,
CRIMINAL SECTION, HIGH COURT, MADRAS.

C.C. to M/S.K.M.SUBRAMANIAM Advocate on payment of necessary charges

Order
in

CRL MP.5331/2021

in CRL.A.NO.191 OF 2021

Date :30/04/2021

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RVR 05/05/2021