



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.6808 of 2021

in

Crl.A.No.824 of 2019

Vediyappan

.. Petitioner/A1

Vs.

State through its
The Inspector of Police,
Sigarapettai Police Station,
Krishnagiri District.
(Crime No.351 of 2012)

.. Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389(1) r/w 439 of Cr.P.C. to suspend the sentence passed in S.C.No.70 of 2019 dated 06.11.2019, on the file of the Additional District and Sessions Judge, Krishnagiri, Krishnagiri District.

For Petitioner : Mr.E.Kannadasan

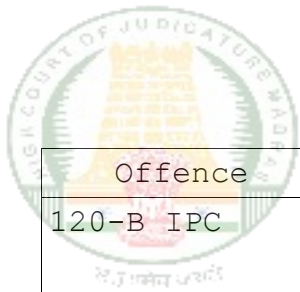
For Respondent : Mr.R.Muniyapparaj
Government Advocate (Crl.Side)

O R D E R

(Order of the Court was made by R.PONGIAPPAN, J.)

This criminal miscellaneous petition has been preferred by the 1st accused seeking to suspend the sentence imposed upon him, by judgment and order dated 06.11.2019 passed in S.C.No.70 of 2019 on the file of the learned Additional District Sessions Judge, Krishnagiri, Krishnagiri District and to enlarge him on bail pending disposal of the appeal.

2. The petitioner herein has been arrayed as the 1st accused in S.C.No. 70 of 2019 on the file of the learned Additional District and Sessions Judge, Krishnagiri, Krishnagiri District. The trial Court, by judgment dated 06.11.2019 convicted the petitioner/A1 for the offence punishable under Sections 120-B and 302 IPC and sentenced him as follows:



Offence	Sentence
120-B IPC	undergo life imprisonment and to pay a fine of Rs.2,000/- in default, to undergo six months simple imprisonment
302 IPC	undergo life imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo six months simple imprisonment

Further, the trial Court ordered the sentences to run concurrently. Seeking suspension of sentence imposed, the present petition has been filed.

3. The deceased was the brother-in-law of the petitioner. Thus, the 2nd accused viz., Kanniyammal, is the sister of the petitioner. According to the prosecution, the deceased was a drunkard. He used to quarrel with A2, namely Kanniyammal, who was doing coolie work to maintain herself and her family consisting of four minor children which is inclusive of three girl children. He used to take money from her and use the same for drinking purpose. Additionally, he used to assault the second petitioner.

4. The further case of the prosecution is that the due to the harassment caused by the deceased, A2 connived with petitioner/A1 and committed the offence. Accordingly, petitioner/A1, mixed poison in the liquor and administered the same to the deceased.

5. The learned counsel appearing for the petitioner/A1 submitted that except the confession given by the petitioner/A1 before the Village Administrative Officer, no material is available to incriminate the petitioner/A1, in the alleged offence. Even assuming that the alleged occurrence is true, the offence under Section 302 I.P.C. is not made out as the offence under Section 304 Part I I.P.C. would get attracted. The petitioner/A1 has been under incarceration for the past two years. The petitioner/A1 is the only person to support the family of the deceased, wherein the deceased has left behind four minor children including three girl children. Therefore, the suspension of sentence will have to be granted.

6. Mr.R.Muniyapparaj, the learned Government Advocate (Crl. Side) appearing for the State submitted that the conviction has been rendered placing reliance upon the evidence of P.W.1 before whom the petitioner/A1 gave the extra judicial confession coupled with the recovery under Section 27 of the Indian Evidence Act, 1872. Thus, this petition requires to be dismissed.

7. Considering the submissions made, we are of the view that there are substantial issues to be considered in the appeal. Since the extra judicial confession, is a weak piece of evidence, in this case, the extra judicial confession given by the petitioner/A1, needs a detailed appraisal. The fact that the deceased was a drunkard and causing harassment to the 2nd accused is not in dispute and the trial Court has also taken note of the aforesaid fact. Further, A2 in this case, had already been granted bail by this Court on 08.10.2010.



8. Thus, considering the above facts, especially the period of incarceration, as aforesaid, we are inclined to suspend the sentence for the petitioner/A1.

9. Accordingly, sentence of imprisonment alone is suspended and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District Sessions Judge, Krishnagiri, Krishnagiri District.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioner shall appear before the respondent/police everyday at 10.30 a.m. for a period of four weeks and thereafter, the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-
13/07/2021

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 SESSIONS JUDGE,
KRISHNAGIRI, KRISHNAGIRI DISTRICT.

2 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, VELLORE.

3 THE SUPERINTENDENT,
SPECIAL PRISON, VELLORE.

4 THE INSPECTOR OF POLICE,
SIGARAPETTAI POLICE STATION,
KRISHNAGIRI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S. E.KANNADASAN Advocate on payment of necessary
charges SR NO.7327

Order

in
CRL.MP.NO.6808/2021
in
CRL.A.NO.824/2019

Date :13/07/2021

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MK:14/07/2021