

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.06.2021

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

AND

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.14794 of 2019

in

Crl.A.No.708 of 2019

Sridhar

... Petitioner/accused No.1

Vs.

State through its
The Inspector of Police,
Chrompet Police Station,
Chengalpet District.
(Crime No.434 of 2002)

... Respondent/Respondent

Criminal Miscellaneous Petition filed under Section 389 (1) Cr.P.C. Read with Section 439 Cr.P.C., to suspend the sentence imposed upon the petitioner by judgment and order dated 10.09.2019 passed in S.C.No.398 of 2006 on the file of the learned Additional District and Sessions Judge, Chengalpattu, and to enlarge the petitioner on bail pending disposal of the appeal.

For Petitioner : Mr.T.R.Ravi

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, seeking to suspend the sentence imposed upon the petitioner, by judgment and order dated 10.09.2019 passed in S.C.No.398 of 2006 on the file of the learned Additional District and Sessions Judge, Chengalpattu, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that on 10.10.2002 at about 7.30pm, when PW1-Ramesh Babu was in his Cable TV office along with his brother, Ethiraj, who is the deceased in this case, the petitioner along with five others unlawfully entered into the said office and by using the knife, the petitioner/accused No.1, attacked the PW1 on the right hand shoulder. Further, he attacked the PW1 on the right side eyebrow. In the course of the same transaction, other accused in this case also, by using dangerous weapons attacked the deceased and caused vital injuries. Resultantly, the said Ethiraj, died. For the said occurrence, a case has been registered against the petitioner/accused No.1 and others in Crime No.434 of 2002 on the file of the Chrompet Police Station, under Sections 147, 148, 450, 307 and 302 IPC.

3. After concluding the trial, by judgment dated 10.09.2019, the learned Additional District and Sessions Judge, Chengalpattu, came to the conclusion that the petitioner/accused No.1 is found guilty for the offence under Sections 148, 450, 324 and 302 IPC. Accordingly, the petitioner/accused No.1 was convicted and sentenced as follows:

Offence	Sentence
Section 148 IPC	Three years rigorous imprisonment and fine of Rs.1000/- in default to undergo six months rigorous imprisonment.
Section 450 IPC	Ten years rigorous imprisonment and fine of Rs.3000/- in default to undergo one year rigorous imprisonment.
Section 324 IPC	Three years rigorous imprisonment and fine of Rs.1000/- in default to undergo six months rigorous imprisonment.
Section 302 IPC	Life imprisonment and fine of Rs.5000/- in default to undergo one year rigorous imprisonment.

The sentences are directed to run concurrently.

4. Challenging the above conviction and sentence, the petitioner/accused No.1, has filed CrI.A.No.708 of 2019 along with the instant miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.T.R.Ravi, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Government Advocate (CrI.Side) appearing for the respondent/State.

6. Mr.T.R.Ravi, learned counsel appearing for the petitioner/accused would submit that the evidences given by the alleged eye witnesses are all having vital contradictions, they have not identified the accused, before the trial Court. More than that, the case has been pending from the year 2006 onwards. Without considering the said aspects, the learned Additional District and Sessions Judge, Chengalpattu, convicted the petitioner/accused No.1, which is erroneous in law and accordingly, the learned counsel for the petitioner/accused No.1 prayed to allow this petition.

7. Per contra, Mr.R.Muniyapparaj, the learned Government Advocate (Crl. Side) appearing for the respondent State has filed a counter affidavit and would submit that during the time of trial, the petitioner and other accused have not appeared regularly for the process of completing the trial proceedings. Further, they were absconding for a long period, due to which, the trial proceedings could not be completed within a short period. According to him, only after proper appreciation of the evidences, the petitioner/accused No.1 had been convicted and sentenced by the trial Court.

8. Now, on considering the rival submissions made by the learned counsel on either side, it appears from the judgment rendered by the trial Court that before the committal Court, due to the non-appearance of the petitioner/accused No.1 and 4th accused in this case, the case against the petitioner was split up from the main case and assigned with case number as PRC No.36 of 2006. Thereafter, the case against the other accused was committed to the Court of Sessions and thereafter the said case was assigned with SC No.398 of 2006. In the mean time, after a prolonged delay, the petitioner/accused No.1 and the 4th accused were secured and thereafter, the case against the petitioner/accused No.1 was also committed to the Court of Sessions. Only then, both the cases were clubbed together and the trial Court proceedings were initiated commonly, for all the accused. In this situation, it is very significant that only due to the attitude of the petitioner and others, the trial was not completed upto the year 2019.

9. In otherwise, the alleged occurrence had happened in the year 2002. The petitioner/accused No.1 has troubled the trial Court with an intention to prolong the trial. Therefore, in the said circumstances, if this type of petitioners are released on bail, there may be a chance for absconding. Further, they have attempted to prolong the disposal of the appeal itself. Hence, considering the previous antecedents of the petitioner/accused No.1, we are of the opinion that this is not a fit case to suspend the sentence of imprisonment and grant bail to the petitioner/accused No.1.

10. In the result, this criminal miscellaneous petition is dismissed. The Registry is directed to call for the records, prepare the typed set of papers immediately and list the main appeal for final hearing in the month of August 2021.

-sd/-
22/06/2021

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,
CHENGALPATTU.

2 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON,
PUZHAL, CHENNAI.

3 THE INSPECTOR OF POLICE,
CHROMPET POLICE STATION,
CHENGALPET DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

COPY TO:
THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

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

WEB COPY

Order

in
CRL.MP.NO.14794/2019
in
CRL.A.NO.708/2019

Date :22/06/2021

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