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Crl.M.P. No. 11598 of 2024

in

Crl.A. No. 1055 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2024

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THE HON'BLE MR .JUSTICE M. NIRMALKUMAR

Crl.M.P. No. 11598 of 2024

in

Crl.A.No.1055 of 2024

Bhoopathy Naidu

..Petitioner

Vs.

The State rep. by
The Inspector of Police,
K.V. Kuppam Police Station,
Vellore District.
(Crime No. 205 of 2013)

..Respondent

Prayer: Petition to suspend the sentence of imprisonment imposed in the judgment dated 12.08.2024 made in Spl.S.C. No. 09 of 2020 on the file of the Sessions Division of Vellore District/Special Court for the offences under the Electricity Act, 2003 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

For Petitioner :: Mr.M. Guruprasad

For Respondent :: Mr.R. Vinothraja



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Govt. Advocate (Crl.Side)
ORDER

Read this in conjunction with and in continuation of the earlier order passed by this Court dated 02.09.2024, which reads as follows:

'The appellant was convicted by the Trial Court in Spl.S.C.No.9 of 2020 dated 12.08.2024 and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.15,000/-, in default, to undergo three months simple imprisonment for the offence under Section 135(1)(e) of the Electricity Act, 2003 and to undergo five years rigorous imprisonment and to pay a fine of Rs.25,000/-, in default to undergo six months simple imprisonment for the offence under Section 304(ii) IPC. Against which, the present appeal and suspension of sentence petition filed.

2.The contention of the learned counsel for the petitioner is that on 11.09.2013 at about 11.30 p.m., the deceased Boopalan S/o.Subramani along with Gnansasekaran, Jeevanandham, Mani, Dhatchinamoorthi took the Vinayagar idol to dissolve it in the pond of their Village. While they were near the pond, they were passing through the appellant's field where he was cultivating groundnut and erected electric fencing to keep away the animals from destroying the field. The said Boopalan had come in contact with the electric fencing and died due to electrocution. This contention of the prosecution may not be true for the simple reason that on the date of occurrence there was no function connecting to Vinayagar



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Chathurthi and it is not a practice in the Village to immerse the idol in the particular pond. P.W.9, Assistant Engineer of the Electricity Department in his evidence had categorically stated that when he inspected the scene of occurrence he found the electric line in the name of one Bangaru has been cut using the cutting plier and the overhead power line of EB got snapped and that may be the cause for electrocution of the said Boopalan. Further, P.W.10/Ramalingam, who is the witness for observation mahazar confirms that when the iron wires and sticks were collected, they were kept separately not found inter-connected forming a fence and hence, the formation of fencing and electrocuting the same is highly doubtful. He further submitted that the appellant had not committed any offence and the death of Boopalan is accidental which is being projected against the appellant. Further, without prejudice to his contention, the appellant is ready to adequately compensate the legal heirs of the said Boopalan.

3.Finding reason and force and also the appellant coming forward to compensate the family of the deceased without prejudice to his rights, this Court is inclined to consider the same. In view of the same, both the learned counsel for the appellant and the learned Additional Public Prosecutor agreed for taking up the appeal for final disposal.

4.Post the matter on 25.09.2024 for final hearing. The Registry is directed to call for records from the Court below and prepare typed set of papers.'



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2. Though the typed set is ready, due to forthcoming Puja Holidays and paucity of time, the appeal could not be taken up immediately. In view of the same, this Court is inclined grant relief to the petitioner by suspending the sentence.

3. Accordingly, the relief of suspension of sentence and bail are granted on the following conditions till the disposal of the above Criminal Appeal:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he 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 learned Judicial Magistrate, Gudiyatham.

(b) The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.



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(c) The petitioner shall appear before the Trial Court on the first working day of every English Calendar 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 that 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.

4. The criminal miscellaneous petition is ordered accordingly.

26.09.2024

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(Note to Office: Issue order copy today (26.09.2024))

To

1. The Judicial Magistrate,
Gudiyatham.
2. The Inspector of Police,
K.V. Kuppam Police Station,
Vellore District.
3. The Public Prosecutor,
High Court, Madras.

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M. NIRMALKUMAR,J.

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