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Crl.M.P.Nos.17802 and 18151 of 2023
in
Crl.A.Nos.802 and 768 of 2023

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M.DHANDAPANI, J.

This criminal miscellaneous petitions have been filed under Section 389(1) of Cr.P.C seeking to suspend the sentence of imprisonment imposed on the petitioners vide judgment dated 10.07.2023 in S.C.No.7 of 2021 on the file of the District and Sessions Court, Karaikal and release the petitioners on bail.

2. Heard learned counsel on either side.

3. The petitioner in Crl.M.P.No.17802 of 2023 was convicted for the offence under Section 304 Part II r/w. Section 34 IPC and Section 342 r/w Section 34 IPC and was sentenced to undergo rigorous imprisonment for 10 years and pay fine of Rs.2000/-, in default, to undergo simple imprisonment for three months under Section 304 Part II r/w. Section 34 IPC and was sentenced to undergo six months simple imprisonment under



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Section 342 r/w Section 34 IPC.

4. The first petitioner in Crl.M.P.No.18151 of 2023 was convicted for the offence under Section 304 Part II r/w Section 34 IPC and was sentenced to undergo rigorous imprisonment for 10 years and pay fine of Rs.2000/-, in default, to undergo simple imprisonment for three months. The second petitioner in Crl.M.P.No.18151 of 2023 was convicted for the offence under Section 304 Part II r/w Section 34 IPC and Section 342 r/w Section 34 IPC and was sentenced to undergo rigorous imprisonment for 10 years and pay fine of Rs.2000/-, in default, to undergo simple imprisonment for three months under Section 304 Part II r/w Section 34 IPC and was sentenced to undergo six months simple imprisonment under Section 342 r/w Section 34 IPC.



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5. A perusal of the judgment passed by the court below reveals that the deceased was employed in the Bar as Watchman. On 16.11.2019, when the deceased was on duty, the deceased had approached the cashier for money for feeding himself to feed his hungry stomach. However, the cashier, while not giving any money to the deceased, castigated the deceased and along with the other accused, attacked the deceased with casurina stick. The deceased sustained bleeding injuries on his forehead, but was taken to the hospital only on the succeeding day. However, inspite of the treatment given to the deceased, he succumbed to the injuries, resulting in the registration of the crime and the consequent trial and punishment.

6. True it is that persons who come to the Bar find themselves in an inebriated condition after consumption of alcohol, but the cashier of the Bar is supposed to maintain a cool head and be in his senses so that he can thwart any attempt by any person to cause ruckus in the drunken state. However, in the case on hand, the cashier, not even considering the pathetic



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condition of the deceased, who had sought for some help for satisfying his hunger was mercilessly hounded and beaten by the cashier along with the other accused.

7. Feeding the poor is equivalent to paying due reverence to the Lord Almighty. The deceased had not solicited for any other help other than seeking some money for feeding himself. When a person is hungry, he would not be in a position to discharge his duties. Without resorting to illegal means, the deceased had approached the cashier and asked for some help to quench his hunger. But unmindful of the hunger of the deceased, the accused had manhandled the deceased by causing grievous hurt, which clearly shows that the accused have no sympathy towards humanity. Leaving the petitioners to walk out, who have exhibited no humaneness, would not be in the interest of the community, as the offence committed by the petitioners is not only heinous in nature, which is not only against the deceased, but against the entire humanity and, therefore, taking a



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sympathetic view would be against the interest of justice.

8. For the reasons aforesaid, this Court is not inclined to suspend the sentence against the petitioners. Accordingly, the criminal miscellaneous petitions are dismissed.

9. Post the main appeals in the usual course.

19.07.2024

ssb



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To

1. The learned District and Sessions Judge, Karaikal.
2. The Public Prosecutor,
High Court of Madras.



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