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Crl.MP.No.20159/2022 in Crl.A.No.1335/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.01.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.20159/2022 in Crl.A.No.1335/2022

Ravi @ Hi-tech Ravi

.. Petitioner/A2

Versus

State rep.by
The Inspector of Police
Thalli Police Station,
Krishnagiri District.
(Cr.No.228 of 2015)

.. Respondent

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.57 of 2017 dated 12.04.2022 on the file of the learned Additional District and Sessions Judge, Hosur, Krishnagiri and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.R.Balaguruswamy

For Respondent : Mr.E.Raj Thilak

Additional Public Prosecutor

ORDER

[Order of the Court was made by SUNDER MOHAN, J]

This criminal miscellaneous petition has been filed seeking to suspend



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the sentence imposed on the petitioner by judgment and order dated 12.04.2022 passed in SC No.57/2017 on the file of the learned Additional District and Sessions Judge, Hosur, Krishnagiri, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The petitioner, who is arrayed as A2 in the above Sessions Case, was convicted for the offence under Section 302 r/w 34 of IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.20,000/-, in default to undergo simple imprisonment for six months.

3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he is seeking suspension of sentence and bail in the present petition.

4. Heard the learned counsel for the petitioner and Mr.E.Raj Thilak, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that the deceased was a Priest in



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Badhrakaliamman Temple and both the deceased and A1 had the practice of giving talisman to the villagers; that they competed with each other in convincing the villagers about their powers; that hence, the deceased and A1 had enmity; the deceased is said to have practiced black magic i.e., kept lime and egg in order to cause harm to A1; that A1 who came to know of it, decided to do away with the deceased with the help of A2 and A3; that on 08.05.2015, the three accused waylaid the deceased who was coming in his two wheeler at 21.30 hours on the pathway to his house and attacked the deceased with knife and Aruvaal, as a result of which, the deceased succumbed to the injuries. Hence, a case was registered in Crime No.228 of 2015, against the accused, for the offences under Sections 120(b), 294(b), 341 and 302 IPC.

6. This Court by order dated 15.12.2023 in Crl.M.P.No.16406 of 2023 in Crl.A.No.1106 of 2023 had suspended the sentence in respect of A1 by making the following observations.

“7. On a perusal of records, we find that the prosecution has not established the motive, which is an important circumstance in a case of circumstantial evidence. Though prosecution case is that the deceased



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had practised black magic by keeping lime and egg in the house of A1, there is no evidence to substantiate the same. On the contrary, the Investigating Officer has ignored the version of P.W.1 in Ex.P1, wherein he had mentioned about his suspicion with regard to the involvement of two other persons Ganesh and Gopal. It is also seen that the Investigating Officer had not conducted any investigation to rule out their involvement in the offence. Further, we find that the recoveries would not advance the prosecution in any manner, as the blood group of the deceased has not been proved by the prosecution. No other circumstance has been proved by the prosecution. We find, therefore, that the petitioner has fair chance of success in the appeal. Therefore, finding a prima facie case in favour of the petitioner/A1, this Court is inclined to suspend the sentence imposed on the petitioner and grant bail to him.”

7. It is also seen that it is the case of the petitioner that there is no recovery from him. Therefore, this petitioner stands in a better footing. Accordingly, since we have already suspended the sentence in respect of A1, we are inclined to grant the relief of suspension of sentence to the petitioner herein/A2 also.

10. Accordingly, this criminal miscellaneous petition stands **allowed**



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and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner is suspended 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 and Sessions Judge, Hosur, Krishnagiri;
- (ii) The petitioner and 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 and mobile numbers to ensure their identity; and
- (iii) 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.

[MSRJ] [SMJ]
12.01.2024

ars

Internet: Yes

Issue order copy by .01.2024



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M.S.RAMESH, J

and

SUNDER MOHAN, J

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To

- 1.The Additional District and Sessions Judge,
Hosur, Krishnagiri
- 2.The Inspector of Police,
The Inspector of Police
Thalli Police Station,
Krishnagiri District.
- 3.The Superintendent of Prisons,
Central Prison, Vellore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.

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12.01.2024