

Crl.M.P.No.7244 of 2016 in Crl.A.No.497 of 2016

S.NAGAMUTHU, J.
AND
V.BHARATHIDASAN, J.

[Order of the Court was made by **V.BHARATHIDASAN, J.,**]

The appellant is the sole accused in S.C.No.47 of 2014 on the file of the learned II Additional District Sessions Judge, Thiruvallur/Poonamalle. By judgment dated 30.09.2015, he has been convicted for offence under Section 302 of IPC and sentenced to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for one year. Challenging the said conviction and sentence, the appellant/accused has preferred the above appeal. Pending appeal, he seeks for suspension of sentence.

2. Heard the learned counsel for the petitioner/appellant and Mr.E.Raja, the learned Additional Public Prosecutor appearing for the State and we have also perused the records carefully.

3. This is a case of circumstantial evidence. The deceased is the wife of the appellant/sole accused. The occurrence has taken place in the house of the accused on 13.5.2013 and subsequently, the appellant was absconding. Only on 15.5.2013, P.W.1, the daughter of the deceased came to the house and lodged a complaint. The other witnesses has seen the accused at the time of occurrence in his house and since the occurrence took place in the house of the accused, the onus lies on the appellant to

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explain as to how the occurrence had taken place. The presumption under Section 114-A of Evidence Act will come into play.

4. In the above circumstances, we do not find prima facie case in favour of the petitioner to suspend the sentence of imprisonment.

5. Hence, the petition is dismissed.

[S.N.J.,] [V.B.D.J.,]

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17.08.2016

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