



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twenty Sixth day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP (MD) No.3527 of 2016
IN
CRL RC (MD) No.269 of 2016

SEENIVASAN

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY INSPECTOR OF POLICE
PALANI TOWN POLICE STATION,
DINDIGUL.

(CRIME NO. 733/2007)

... RESPONDENT/RESPONDENT

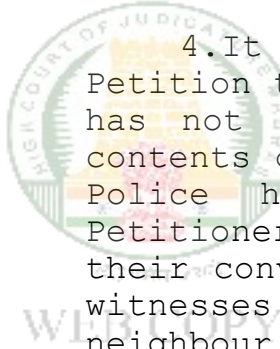
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by the Mahila Court (Mahila Fast Track Court), Dindigul made in SC No. 238 of 2010 on the file of Mahila Court (Mahila Fast Track Court), Dindigul, dated 31.03.2016 pending disposal of the above Crl.R.C.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S V.PANDIYAN, Advocate for the petitioner and of MR.P.KANDASAMY Government Advocate (Crl.Side) for the Respondent the court made the following order:-

This is an application to suspend the sentence imposed on the Petitioner/Revision Petitioner/Accused in S.C.No.238 of 2010, dated 31.03.2016, on the file of Mahila Court (Mahila Fast Track Court), Dindigul, pending disposal of the above Criminal Revision Petition.

2.It is clearly stated in the affidavit enclosed with the Petition that the Petitioner/Revision Petitioner/Accused has been convicted under Section 306 of IPC and sentenced to undergo simple imprisonment for three years and to pay a fine of Rs.2,000/-, in default, further to undergo simple imprisonment for six months.

3.It is also reported that the Petitioner/Revision Petitioner/Accused has paid the fine amount of Rs.2,000/- to the credit of S.C. No.238 of 2010, dated 31.03.2016, on the file of the learned Sessions Judge, Mahalir Neethi Mandram (FTC) Mahila, Dindigul.



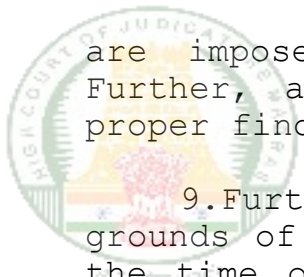
4. It is further stated in the affidavit enclosed with the Petition that P.W.1-mother of the victim girl, has deposed that she has not lodged the complaint to the Police Station. Hence, the contents of Ex.P1 are not the complaint given by P.W.1. Hence, the Police himself has prepared the complaint and arrayed the Petitioner/Revision Petitioner as an accused in this case to suit their convenience. Further, the non-examination of two independent witnesses is fatal to the case of the prosecution. Further, no neighbour has been examined by the prosecution to prove the place of occurrence, time of occurrence, manner of occurrence, the persons who rescued the deceased from fire and admitted her in the hospital.

5. It is specifically stated in the grounds of revision that P.W.6 himself has admitted that he is a close relative of P.W.2. Further, the evidence of P.W.3 and P.W.4 are not genuine. Further, the prosecution has admitted that the deceased has been admitted in Palani Government Hospital for her burn injuries on 6.9.2007. But there is no Accident Register and no particulars of admission of the deceased. Hence, the occurrence has not taken place in the manner, at the place and time as alleged by the prosecution. Both the Courts below have also found fault with the Investigation Officer for absence of investigation to collect the material objects of kerosene can and match box from the place of occurrence. Since the death is in suspicious circumstance, the material evidence and objects have not been produced by the prosecution before the Court below.

6. On a perusal of the entire materials available on record, it is found that there are certain force in the grounds made in the memorandum of revision and that the Petitioner/Revision Petitioner/Accused has made out a *prima facie* case to grant suspension of sentence as sought for. Further, in the grounds of revision, the Petitioner/Revision Petitioner/Accused has raised 26 grounds challenging the impugned judgment passed by the trial Court. Further, it is stated that the Petitioner/Revision Petitioner/Accused has got the benefit of bail during the trial court proceedings and also complied with the conditions imposed by the trial Court.

7. On a careful consideration of the materials available on record, it is seen that there are arguable points in the present revision. Further, when the appellate Court finds that due to practical reasons, revision cannot be disposed of expeditiously, the Revision Court must bestow special concern in the matter of suspending the sentence, as prayed for in the present petition, so as to make the revisional right, meaningful and effective. Otherwise, the very valuable right of revision would be an exercise in futility by efflux of time.

8. From the submissions made on behalf of the Petitioner/Revision Petitioner/Accused and in view of the various grounds raised in the memorandum of Criminal Revision, this Court finds that there are substantial and arguable points in the present case. Further, it is also seen that if certain stringent conditions



are imposed, there is no chance for the accused to abscond. Further, after hearing the main revision alone, the correct and proper finding in the main case can be given.

9. Further, it is seen that the various points raised in the grounds of revision require an in-depth/thread-bare examination at the time of final hearing of the main revision and also on going through the various grounds raised in the memorandum of Criminal Revision, at this stage, this Court, to prevent aberration of justice, suspends the substantial sentence of imprisonment alone pending disposal of the above Criminal Revision, with the following conditions:

i) the Petitioner/Revision Petitioner/Accused shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a like-sum to the satisfaction of the learned Judicial Magistrate, Palani.

ii) the Petitioner/Revision Petitioner/Accused shall appear before the said Court once in a month viz., first working day of every English Calendar month, until further orders, failing which, the said Court is directed to inform about the details of failure committed by the Petitioner/Revision Petitioner/Accused in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the Petitioner/Revision Petitioner/Accused shall furnish the present full details of his residential address along with copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India and also phone numbers (mobile/land-line), if any, to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent/police; and

iv) on receipt of the true copy of the said affidavit, the respondent/ police is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to respondent to take appropriate follow up action, in accordance with law.

sd/-
26/04/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsn

TO

1 THE JUDICIAL MAGISTRATE, PALANI

<https://hcservices.ecourts.gov.in/hcservices/>

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT



3 THE SESSIONS JUDGE
MAHALIR NEETHI MANDRAM (FAST TRACK COURT) MAHILA, DINDIGUL

4 THE INSPECTOR OF POLICE, PALANI TOWN POLICE STATION,
DINDIGUL.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to M/S V.PANDIYAN Advocate SR.No.24047

GJM/AN/MP-SAR-I-27.4.16-4P-7C

ORDER

IN

CRL MP (MD) No.3527 of 2016

IN

CRL RC (MD) No.269 of 2016

Date :26/04/2016