



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

Friday, the Seventeenth day of June Two Thousand Sixteen

PRESENT

The Hon`ble Dr.Justice P.DEVADASS

CRL MP(MD) No.4367 of 2016
IN
CRL A(MD) No.194 of 2016

VIJAYAKUMAR

... PETITIONER/APELLANT.

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KARAMBAKUDI POLICE STATION,
PUDUKKOTTAI DISTRICT.
CR. NO.5/2013

... 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 of imprisonment imposed by the Learned Sessions Judge Mahila Court Pudukkottai in S.C. no.48 of 2013 by the Judgement dated 31.5.2016 and enlarge the petitioner/Accused on bail pending disposal of the above said Crl.A.

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

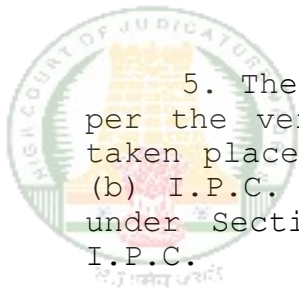
The sole accused in S.C.No.48 of 2013, on the file of the learned Additional Sessions Judge, Mahila Court, Pudukottai, while challenging his conviction and sentence, seeks appeal bail under Section 389 Cr.P.C.

2. In the said Court, he was convicted and sentenced as detailed below:

- (i) He was found guilty under Sections 294(b), 354, 326 and 307 I.P.C., and find Rs.500/- for the offence u/s 294(b) i/d 1 week S.I.; 3 years R.I., and fined Rs.1000/- for the offence u/s 354 I.P.C., i/d 6 months R.I.; 10 years S.I., and fined Rs.1000/- for the offence u/s 326 I.P.C., i/d 6 months R.I.; and 10 years R.I., and fined Rs.1000/- for the offence under Section 307 I.P.C., i/d 6 months R.I.

3. All the sentences were directed to run concurrently. Fine amounts were paid.

4. The accused is a married man. He is stated to have developed illegal intimacy with P.W.1, a widow. In this connection, quarrel arose between them. In the circumstances, the petitioner is alleged to have abused her, assaulted her and also attempted on her life by strangulating her.



5. The learned counsel for the petitioner would contend that even as per the version of the prosecution, the occurrence is alleged to have taken place in a forest like area, which will not fall under Section 294 (b) I.P.C. Further, the hurt alleged to have been caused will not come under Section 320 I.P.C., because it does not fall under Section 326 I.P.C.

6. The learned counsel for the petitioner also contended that P.W.1 was very much upset by the behaviour of the petitioner, in such circumstances, she has implicated him in this case. In such circumstances, it is hazardous to act upon such a testimony of P.W.1. He would also submit that the prosecution has thoroughly failed to establish the offences alleged as against the accused.

7. Prosecution filed counter.

8. The learned Government Advocate (Criminal Side) submitted that the evidence of P.W.1 is very clear. Her evidence has also been supported by medical evidence. In such circumstances, the Trial Court has rightly convicted and sentenced him.

9. I have anxiously considered the rival submissions, perused the impugned Judgment and the relevant materials on record.

10. Our attention has been invited mainly to the place of occurrence. It has been contended that the nature of place is such that it would not fall under Section 294(b) I.P.C. Much emphasis has been made by the learned counsel for the petitioner as to the reliance to be placed on the evidence of P.W.1, who has entertained a strong antipathy towards the petitioner. In the facts and circumstances, I find certain eminently arguable points are involved in this criminal appeal. They are required to be examined in the main criminal appeal. It will take sometime for the disposal of this criminal appeal. In the circumstances, I find prima facie case in favour of the petitioner. Thus, I am inclined to grant him appeal bail.

11. Ordered as under:

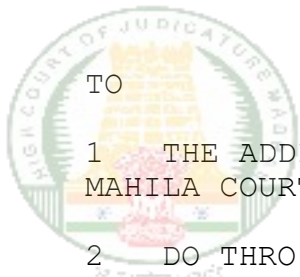
- (i) Appeal bail granted.
- (ii) Sentence of imprisonment alone is suspended.
- (iii) There shall be two sureties, they and the petitioner shall execute a bond for Rs.15,000/- (Rupees fifteen thousand only) each to the satisfaction of the learned Judicial Magistrate, Alangudi.
- (iv) The petitioner shall stay in Peravoorani and report before the Inspector of Police, Peravoorani Police Station, daily at 10.30 a.m., until further orders.

sd/-

17/06/2016

/ TRUE COPY /

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



TO

1 THE ADDITIONAL SESSIONS JUDGE,
MAHILA COURT, PUDUKKOTTAI.

2 DO THRO THE PRINCIPAL SESSIONS JUDGE,
PUDUKKOTTAI.

3 THE JUDICIAL MAGISTRATE,
ALANGUDI.

4 DO THRO THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.

5 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.

6 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

7 THE INSPECTOR OF POLICE
KARAMBAKUDI POLICE STATION,
PUDUKKOTTAI DISTRICT.

8 THE INSPECOR OF POLICE
PERAVOORANI POLICE STATION,
PERAVOORANI, THANJAVUR DISTRICT.

+1. C.C. to M/S D.RAMESHKUMAR Advocate SR.No.31196.

ORDER

IN

CRL MP(MD) No.4367 of 2016

IN

CRL A(MD) No.194 of 2016

Date :17/06/2016

AM/GSV.PM/SAR-II/20.06.2016/3P/10C