



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

Wednesday, the Second day of November Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU

and

The Hon`ble Mr.Justice M.V.MURALIDARAN

CRL MP (MD) No.9977 of 2016

IN

CRL A (MD) No.377 of 2016

RAMESH

... PETITIONER / APPELLANT

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
SEITHUR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.

... 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 by the Sessions Court Fast Track Mahila court, Srivilliputtur in S.C.No.141 of 2010 dated 10.08.2015 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal and thus render justice.

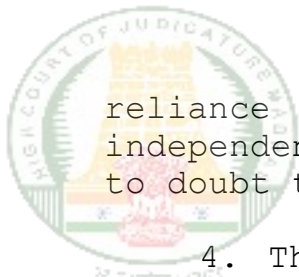
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.S.MAYAPERUMAL, Advocate for the petitioner and of M/S.R.RAMACHANDRAN, ADDL.PUBLIC PROSECUTOR on behalf of the Respondents the court made the following order:-

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner is the sole accused in S.C.No.141 of 2010 on the file of the Sessions cum Mahila Fast Track Court, Virudhunagar District at Srivilliputhur. He has been convicted under Section 376 and 302 IPC. The maximum sentence imposed upon him is the imprisonment for life. Challenging the conviction and sentence, the appellant /accused has filed Crl.A.(MD).No.377 of 2016. Pending appeal, he has come up with this petition seeking suspension of substantive sentence.

2.We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

3.In this case, PW2 has turned hostile. According to the learned counsel for the appellant, in the light of the said fact, types court.gov.in/hservices/ entitled for acquittal. But, *prima facie* we are not convinced by the said argument. Though PW2 has turned hostile to save her husband viz., the accused, the prosecution has made



reliance on extra judicial confession made by the accused to an independent Government officer (PW7). We do not find any reason to doubt the same.

4. The learned counsel for the petitioner would submit that the said extra judicial confession viz., Ex.P2 is inadmissible in evidence, as PW7 to whom the confession was made, was not previously known to the accused. We are not persuaded by the said argument, because it is regarding the relevancy of the extra judicial confession. Law does not make any such condition that such extra judicial confession should have been made only to a known person. It all depends upon the credibility of the extra judicial confession. If the extra judicial confession inspired the confidence of the Court, even in the absence of any corroboration from any other independent source, the same can be the sole foundation for conviction. Reference in this regard may be made to the judgment of the Hon'ble Supreme Court in **Kashmira Singh Vs. State of Madhya Pradesh, 1952 AIR 159**.

5. Thus, *prima facie* we are satisfied that the prosecution has proved not only murder but also rape. Thus, it is not a fit case to grant suspension of substantive sentence. This petition is, therefore, dismissed.

sd/-

02/11/2016

/ TRUE COPY /

Sub-Assistant Registrar (C.S.3)

TO

- 1 THE SESSIONS CUM MAHILA
FAST TRACK COURT, VIRUDHUNAGAR.
- 2 THE ADDL.PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 3 THE INSPECTOR OF POLICE
SEITHUR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
4. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

ORDER

IN

CRL MP(MD) No.9977 of 2016

IN

CRL A(MD) No.377 of 2016

Date :02/11/2016



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