

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twentieth day of December Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice SATRUGHANA PUJAHARI

CRIMINAL MISCELLANEOUS PETITION No.15265 of 2017

IN CRL A.761/2017

GUNASEKARAN,

[PETITIONER]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
KADAMPULIYUR POLICE STATION,
CUDDLALORE DSITRICT.
(CR.NO.366/2016).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No. on the file of the High Court, the High Court will be pleased to suspend the sentence and grant bail to the petitioner/appellant for the conviction and sentence imposed in S.C.No.124 of 2017 dated 10.11.2017 on the file of Session Judge Mahila Court, Cuddalore pending disposal of the above said Criminal appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A No.761/2017 on the file of the High Court and upon hearing the arguments of M/S.K.GANDHI KUMAR, Advocate for the petitioner and of MR. R. RAVICHANDRAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

[Order of the Court was made by M. SATHYANARAYANAN,J.,]

The petitioner / appellant is the sole accused in SC.NO.124/2017 on the file of the Court of Mahila Judge, Cuddalore and he stood charged and tried for the commission of the offences u/s.341 and 302 IPC and vide impugned Judgment, the

Trial Court has convicted him the aforesaid offences and sentenced him to undergo one month simple imprisonment for the offence u/s.341 IPC and further, sentenced him to undergo rigorous imprisonment for life and to pay a fine of Rs.1000/- with a default sentence of six months rigorous imprisonment and challenging the legality of the said conviction and sentence, the petitioner / appellant has preferred the present appeal and pending appeal, has filed the above miscellaneous petition seeking suspension of sentence.

2 The deceased Dhanam was aged about 70 years and she is the mother of P.Ws.1 and 2. The motive for the commission of the

offence is that there was a dispute with regard to watering the field between P.W.7 and the father of the petitioner / appellant and in this regard, the petitioner / appellant has damaged the TATA ACE vehicle of P.W.7 on 20.11.2016 and in this regard, a complaint was also lodged on the file of Kadampuliyur Police Station. The petitioner / appellant enraged by the same, had wrongfully restrained P.W.1-sister-in-law of P.W.7 and her mother [deceased] and attacked the deceased on her right hand and she fell down and thereafter, the petitioner / appellant had put a stone on her head and the deceased was admitted in the hospital on the same day and without responding to the treatment, she died on 26.11.2016.

3 The learned counsel for the petitioner / appellant would submit that admittedly the alleged eyewitnesses are closely related to the deceased and their testimonies did not corroborate with each other on material particulars and there are very many infirmities in the case projected by the prosecution and that the petitioner / appellant is having a bright chance of success in the appeal and prays for suspension of his sentence of substantive imprisonment.

4 *Per contra*, Mr.R.Ravichandran, learned Government Advocate [Crl.Side] appearing for the State would submit that P.Ws.1, 2 and 7 are the eyewitnesses to the occurrence and the scientific evidence would also establish that the deceased died on account of homicidal violence and as such, it is not a fit case, wherein this Court may grant suspension of sentence and hence, prays for dismissal of this miscellaneous petition.

5 The Court has considered the rival submissions and also perused the materials placed before it.

6 A perusal of the impugned judgment would *prima facie* disclose that the eyewitnesses to the occurrence are P.Ws.1, 2 and 7 and they have spoken about the overt act on the part of

the petitioner / appellant. Though it is the primordial submission of the learned counsel for the petitioner / appellant that the testimonies of the said prosecution witnesses did not corroborate with each other on material particulars, in the considered opinion of the Court, it can be appreciated only at the time of final disposal of the appeal.

7 This is not the fit case wherein suspension of sentence is to be granted to the petitioner / appellant pending appeal.

8 Accordingly, the miscellaneous petition is dismissed. The Registry is directed to prepare the typed set of documents and accord priority for listing the above criminal appeal for final disposal.

-sd/-
20/12/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSION JUDGE
MAHILA COURT, CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 STATE REP. BY
THE INSPECTOR OF POLICE, KADAMPULIYUR POLICE
STATION, CUDDLAORE DSITRICT.

4 THE SECTION OFFICER,
CRIMINAL SECTION, HIGH COURT, MADRAS

5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

+1 C.C. to M/S.K.GANDHI KUMAR Advocate on payment of
necessary charges Sr.NO.22987

Order
in
CRL MP.15265/2017
in
CRL A.761/2017
Date :20/12/2017

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MD: 28/12/2017