



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

Friday, the Thirtieth day of June Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.1795 of 2017
IN
CRL A(MD) No.68 of 2017

CALVIN CHRISTOPHER ... PETITIONER/APPELLANT/ACCUSED NO.1

Vs

THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID POLICE, MADURAI UNIT,
(INCRIME NO.361/2010)
ON THE FILE OF THE OOMACHIKULAM
POLICE STATION, MADURAI ... RESPONDENT/RESPONDENT/COMPLAINANT

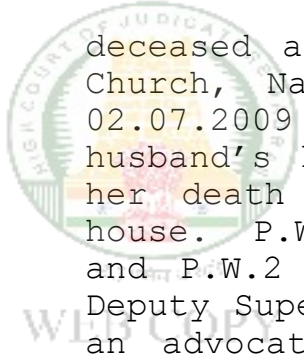
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant/accused in S.C.No.150/2015 dated 22/02/2017 on the file of the Fast Track Mahila Court, Sivagangai and enlarge him on bail till the disposal of the appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.VENKATESHWARAN, Advocate for the petitioner and of MR.C.MAYIL VAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioner / appellant, who is arrayed as A1 in S.C.No.150 of 2015 on the file of the Fast Track Mahila Court, Sivagangai has been convicted to undergo one year R.I. and also to pay a fine of Rs.5,000/- in default 3 months R.I. for the offence under Section 498 (A) IPC and also convicted and sentenced to undergo 10 years R.I. for the offence under Section 304(B) IPC. The said sentences will run concurrently.

2.Against the order of conviction, the petitioner / accused has preferred the present Criminal Appeal in Crl.A.(MD)No.68 of 2017 before this Court and the same is pending.

3.The petitioner / appellant herein is the husband of the deceased in this case and the deceased, who has committed suicide by consuming poison. The accused Nos.1 and 2 are the parents of A1 and the 3rd accused is the in-law of the deceased. The engagement was celebrated on 23.02.2009 between the petitioner / appellant and the



deceased and the marriage was celebrated on 02.07.2009 at C.S.I. Church, Narimedu, Madurai. From the date of marriage ie., on 02.07.2009 to January last 2010, the deceased was living in her husband's house along with her parent-in-laws and after that till her death ie., on 19.04.2010, the deceased was in her parent's house. P.W.1, who is the complainant, is the mother of the deceased and P.W.2 is the father of the deceased. P.W.2 is the retired Deputy Superintendent of Police. The petitioner / appellant (A) is an advocate and his father was Additional Public Prosecutor at Maudrai Bench of Madras High Court at the time of occurrence. The deceased was working as a Lecturer in American College, Madurai. During the pendency of the case, A2 died and hence, the charges against A2 was abated.

4.The case of the prosecution is that A1, A2 and A3 have subjected the deceased to various types of cruelty and also dowry harassment and due that the deceased committed suicide within 10 months of her marriage by consuming organo phosphorus insecticide poison and all the 3 accused had committed the offences under Sections 498 (A), 304(B) IPC and Section 4(B) of the Tamil Nadu Prohibition of Women Harassment Act, 1998.

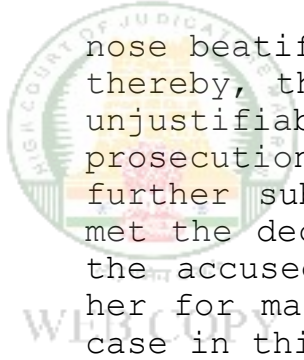
5.The Trial Court has framed charges against A1 under Sections 498(A), 304(B) IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1988 and as against A3 under Sections 498(A) and 304 (B) IPC.

6.The Trial Court by its judgment dated 22.02.2017 has convicted and sentenced the petitioner / appellant / A1 to undergo imprisonments for the offences under Sections 498(A) and 304(B) IPC and he was acquitted from the charge of Section 4(B) of the Tamil Nadu Prohibition of Women Harassment Act and A3 was acquitted for the offences under Sections 498(A) and 304(B) IPC as the charges were not proved.

7.Fine amount imposed has been paid.

8.The petitioner / appellant was now confined at Central Prison, Madurai from the date of judgment i.e., from 22.02.2017 onwards. The present petition is filed by the petitioner / appellant seeking order of suspension of sentence imposed on him by the Trial Court and enlarged him on appeal bail till the disposal of the Criminal Appeal.

9.The learned counsel appearing for the petitioner / appellant would submit that there was no evidence on record to attract the ingredients of Section 304(B) IPC, which is less than the demand of dowry soon before her death as contemplated in law and also there was no evidence to attack the ingredients of the offence under Section 498(A) IPC and the deceased was highly qualified person and working as a Lecturer in a college and she was living in her parental home for a month together before her death and she exterminated herself coupled with the admitted evidence and also she suffered severe pain and distress in performing operation for her



nose beatification. Admittedly, she used to have drops for nose and thereby, the petitioner / appellant has saddled with her suicide is unjustifiable and that there are material contradictions in the prosecution case and evidences are not cogent and continuing. He further submitted that admittedly, the petitioner / appellant only met the deceased at her college first and on the first sight itself the accused satisfied with her appearance and beauty and proposed her for marriage and the petitioner / appellant having prima facie case in this Criminal Appeal.

10.The learned Government Advocate (Crl.side) appearing for the respondent reiterating the counter allegations of the respondent would submit that the Trial Court has rightly convicted the petitioner / appellant on appreciating the evidence of the prosecution and that the petitioner / appellant is not having any prima facie case in this Criminal Appeal.

11.On perusal of the Trial Court judgment and also the materials on record produced by the petitioner / appellant, this Court finds that there are certain arguable points in favour of the petitioner / appellant in this Criminal Appeal in respect of the evidence of harassment against him under Section 304(B) IPC. Further, the petitioner / appellant is a practicing advocate and he was not present at the time of committing suicide by the deceased in her parental home and also the petitioner is in prison for more than 4 months.

12.In the facts and circumstances, perusing the impugned judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this Criminal Appeal. They are required to be examined in detail in the main Criminal Appeal. Further, it will take some time for the disposal of the Criminal Appeal.

13.On considerations, ordered as under:

- (i) Appeal bail is granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties each for the like sum each to the satisfaction of the learned District Munsif cum Judicial Magistrate No.IV, Madurai.
- (iii) The petitioner shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-
30/06/2017

/ TRUE COPY /



TO

- 1 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE NO.IV, MADURAI.
 - 2 THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.
 - 3 THE FAST TRACK MAHILA COURT, SIVAGANGAI
 - 4 THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID POLICE, MADURAI UNIT,
ON THE FILE OF THE OOMACHIKULAM POLICE STATION, MADURAI
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
 - 6 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- +1. C.C. to M/S.R.VENKATESHWARAN Advocate SR.No.25567

ORDER
IN
CRL MP (MD) No.1795 of 2017
IN
CRL A (MD) No.68 of 2017
Date :30/06/2017

MKV-CM-SAR 1/30.6.2017/4P-8C