



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

Monday, the Twenty Fourth day of July Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.6004 of 2017
IN
CRL A(MD) No.253 of 2016

SUBBAIAH

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KOPPAMPATTI POLICE STATION,
KOPPAMPATTI,
THOOTHUKUDI DISTRICT.
(IN CRIME NO. 37 OF 2014) ... RESPONDENT/RESPONDENT/ COMPLAINANT

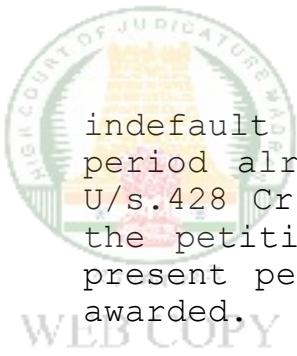
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and release on bail pending disposal of this Criminal Appeal before this Honourable Court against the Judgement in S.C.No.131 of 2015 on the file of the Honourable Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi dated 08/01/2016.

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

(Order of the Court was made by **M.M.SUNDRESH.J.,**)

This petition has been filed praying to suspend the sentence imposed against the petitioner in Sessions Case No.131 of 2015 by the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi and also to enlarge him on bail.

2. The petitioner, who is arrayed as sole accused in S.C.No.131 of 2015, on the file of the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, wherein the petitioner has been found guilty under Section 302 of the Indian Penal Code and sentenced to undergo Life imprisonment with a fine of Rs.3,000/-



in default to undergo six months Rigorous Imprisonment. The remand period already undergone by the accused is ordered to be set off U/s.428 Cr.P.C., It is stated in the petition that from 21.03.2014, the petitioner is in custody. Under the said circumstances, the present petition has been filed seeking suspension of the sentence awarded.

3.The case of the prosecution is that on 08.03.2014 the petitioner, who is none other than the husband of the deceased, after quarrel set her on fire and committed the offence.

4.The learned counsel appearing for the petitioner would submit that the evidence of P.W.8 would show that the deceased was in a semi-conscious stage. P.W.8 also admits that the person in a semi-conscious stage cannot answer the question. Therefore, there is a doubt created over the Dying Declaration in Ex.P14. The learned counsel further submitted that P.W.2, who stated to be a eye-witness, has turned hostile.

5.We find, except Dying Declaration and eye witness of P.W.2, who has also turned hostile there is no other material available. Therefore, we find that a prima facie case has been made out to suspend the sentence. Further, also by considering the period of detention already undergone by the petitioner, we are inclined to grant suspension of the sentence.

6. In fine, this petition is allowed and the sentence imposed against the petitioner in Sessions Case No.131 of 2015 by the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi is alone suspended till the disposal of Criminal Appeal No.253 of 2016 and the petitioner will be released on bail on executing a bond for a sum of Rs.10,000/- and two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Kovilpatti and on further condition that 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/-
24/07/2017

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

TO

1. THE SESSIONS JUDGE,
<https://hcservices.ecourts.gov.in/hcservices/>
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THOOTHUKUDI.



2. THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI.

3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

5. THE INSPECTOR OF POLICE, KOPPAMPATTI POLICE STATION,
KOPPAMPATTI, THOOTHUKUDI DISTRICT.

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

+1. C.C. to M/S R.ALAGUMANI, Advocate SR.No.27123

ORDER

IN

CRL MP (MD) No.6004 of 2017

IN

CRL A (MD) No.253 of 2016

Date :24/07/2017

MS/PM-PN/SAR.4/28.07.2017/2P.8C