



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

Friday, the Fifteenth day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.6033 of 2017
IN
CRL A (MD) No.234 of 2017

AZHVARSAMY

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
YETTAIYAPURAM POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.111/2016

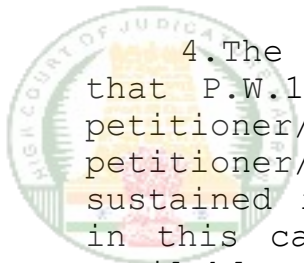
... RESPONDENT/COMPLAINANT

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 the petitioner on bail pending disposal of this Criminal Appeal before this Honourable Court against the Judgement in S.C.No.226/2016 on the file of the Honourable Mahila cum Sessions Judge, Thoothukudi dated 23/05/2017.

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

The petitioner is sole accused in S.C.No.226/2016 on the file of the Mahila Court Sessions Judge, Thoothukudi. He stood charged for an offence under Sections 307, 506(ii) I.P.C and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1998. The trial Court convicted the petitioner for all the charges and sentenced him to undergo 5 years rigorous imprisonment for the offence under Section 307 I.P.C and one year rigorous imprisonment for the offence under Section 506(ii) I.P.C and one year rigorous imprisonment for the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1998. Against the conviction and sentence passed by the trial Court, Crl.A(MD)No.234 of 2017 has been filed and pending appeal, in order to suspend the sentence, the present Miscellaneous Petition is filed.

3.I have heard Mr.Vijay Boominathan, the learned Counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.



4.The learned counsel appearing for the petitioner submitted that P.W.1-the injured witness in this case is the wife of the petitioner/accused and there was a wordy quarrel between the petitioner/appellant and P.W.2/brother of P.W.1, in which, P.W.1 sustained injuries and this petitioner has been falsely implicated in this case. The trial court, without considering the evidence available on record, in proper perspective, convicted the appellant.

5.The learned Additional Public Prosecutor appearing for the respondent submitted that P.W.1 is the wife of the petitioner/appellant and she has categorically stated that suspecting her fidelity, the petitioner/accused deliberately attacked her with aruval and caused serious injuries. P.W.3, who is an eye witness, has also corroborated the evidence of P.W.1. The court below, after considering the entire evidence, has rightly convicted the appellant. Thus, he opposed to grant suspension of sentence.

6.I have considered the rival submissions and the materials available on record.

7.Perusal of the records, it is seen that the occurrence has taken place, during a wordy quarrel, only out of sudden provocation. Considering the facts and circumstances of the case and since there are some arguable points involved in the appeal and it may take long time for taking up the appeal for hearing, I am inclined to suspend the sentence of imprisonment alone imposed against the petitioner.

8.In fine, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, No.2, Kovilpatti, with a further condition that the petitioner shall report before the committal Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal or until further orders.

sd/-

15/09/2017

/ TRUE COPY /

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

TO

1 THE MAHILA CUM SESSION JUDGE, THOOTHUKUDI.

2 THE JUDICIAL MAGISTRATE NO.II, KOVILPATTI.

<https://hcservices.courts.gov.in/hcservices/>

3 TO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.



4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

5 THE INSPECTOR OF POLICE,
YETTAIYAPURAM POLICE STATION, 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.30899

ORDER
IN
CRL MP (MD) No.6033 of 2017
IN
CRL A (MD) No.234 of 2017
Date :15/09/2017

MKV-PM-PN-SAR 4/20.09.2017/3P-8C