



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

Monday, the Eleventh day of September Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH

and

The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP (MD) No.7509 of 2017

IN

CRL A (MD) No.322 of 2017

PALANI

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ERANIEL POLICE STATION, ERANIEL,
KANNIYAKUMARI DISTRICT
(CRIME NO.834 OF 2011)

... RESPONDENT/COMPLAINANT

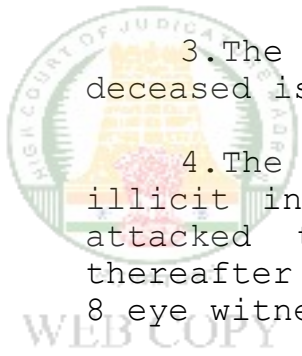
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by the Sessions Judge, Fast Track Mahila Court, Nagercoil, Kanyakumari Dt in SC.No.09/2013 by the Judgement dated 24/08/2016 and enlarge the petitioner on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.A.THIRUVADIKUMAR for M/S.N.PRAGALATHAN, Advocate for the petitioner and of MR.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 Session Case No.9 of 2013 by the learned Sessions Judge, Fast Track Mahila Court, Nagercoil, Kanyakumari District and also to enlarge him on bail.

2.The petitioner is arrayed as accused No.1 in S.C.No.9 of 2013, wherein the petitioner has been found guilty under Section 302 of IPC and sentenced to undergo Life Imprisonment and also imposed a fine of Rs.15,000/- in default to undergo one year Rigorous Imprisonment and he has been found guilty under Section 148 of IPC imposed a fine of Rs.2,000/- in default to undergo one month simple Imprisonment and he has been found guilty under Section 294 (b) imposed a fine of Rs.5,00/- in default to undergo one week simple Imprisonment. Under the said circumstances, the present petition has been filed seeking suspension of the sentence awarded.



3.The alleged occurrence was taken place on 24.12.2011. The deceased is none other than the wife of the petitioner.

4.The case of the prosecution is that the deceased was having illicit intimacy with P.W.4. An estrange over it, the petitioner attacked the deceased first with stone then with stick and thereafter Kerosene stove. Due to which, she died. Though there are 8 eye witnesses, four of them were turned hostile.

5.The learned counsel for the petitioner would submit that P.W.3 is the son of the deceased and the petitioner. Even he has told that the complaint given earlier has been suppressed. There are four eye witnesses turned hostile and the other witnesses speak about the throwing of stone and the stick. The petitioner is in incarceration from 24.08.2016 onwards.

6.The learned Additional Public Prosecutor would submit that only P.Ws.3,5 and 14 also speaks about the occurrence. The trial Court has taken note of the evidence of P.W.3 being the son of the petitioner and deceased, coupled with the other evidence rightly rendered the conviction and no interference is required.

7.Considering the above facts and taking note of the fact that there was a illicit intimacy between the deceased and P.W.4 is not in dispute and also on a perusal of the evidence available on record, especially with respect to the evidence of P.W.3 and there are some arguable points are involved in this criminal appeal and considering the period of incarceration undergone by him, we are inclined to grant suspension of the sentence.

8. In fine, this petition is ordered and the sentence imposed against the petitioner in S.C.No.9 of 2013 by the learned Sessions Judge, Fast Track Mahila Court, Nagercoil, Kanyakumari District is alone suspended till the disposal of Criminal Appeal No.322 of 2017 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 Sessions Judge, Fast Track Mahila Court, Nagercoil, Kanyakumari District 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/-
11/09/2017

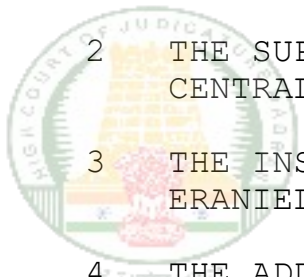
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SESSIONS JUDGE,

<https://hcservices.ecourts.gov.in/hcservices/>
FAST TRACK MAHILA COURT, NAGERCOIL, KANYAKMARI DISTRICT.



2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

3 THE INSPECTOR OF POLICE,
ERANIEL POLICE STATION, ERANIEL, KANNIYAKUMARI DISTRICT.

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

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+1. C.C. to M/S.N.PRAGALATHAN Advocate SR.No.30389

ORDER

IN

CRL MP (MD) No.7509 of 2017

IN

CRL A (MD) No.322 of 2017

Date :11/09/2017

MKV-PM-PN-SAR 2/13.09.2017/3P-6C