



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

Monday, the Thirtieth day of October Two Thousand Seventeen

PRESENT

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

CRL MP (MD) No.9394 of 2017
IN
CRL A (MD) No.411 of 2017

1 SARATHA

2 POTHUMPON

... PETITIONERS/APPELLANTS

Vs

STATE THE INSPECTOR OF POLICE
THIRUCHITTAMBALAM POLICE STATION,
PUDUKKOTTAI DISTRICT,
CRIME NO.160/2008

... RESPONDENT/RESPONDENT

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 petitioners by the Judgement in S.C.No.168/2012 dated 27/09/2017 on the file of the Sessions court, Mahalir Neethimandram (Fast Track Mahila Court) Thanjavur and grant bail to the petitioner pending disposal of the above Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.R.R.SIVASUBRAMANIAN, Advocate for the petitioners and of MR.T.MOHAN, Additional Public Prosecutor for the Respondent, while admitting the CRL A, the court made the following order:-

The accused in S.C.No.168 of 2012, on the file of the learned Sessions Court, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, while challenging their conviction and sentence, seek appeal bail under Section 389(1) Cr.P.C.

2.After trial, the learned Sessions Court, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, had convicted the accused as under: -



Accused	Conviction	Sentence
A1 and A2	Section 306 I.P.C.,	Each 10 Years R.I., Fine Rs.2000/-each i/d., 1 year S.I. each.

3. The petitioners have paid the fine amount imposed by the trial Court.

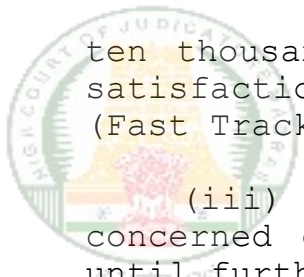
4. The learned counsel appearing for the petitioners would submit that the petitioners are sisters of the deceased husband in this case. The first petitioner herein is a cancer patient and the trial Court has come to the conclusion in its Judgment that except the Dying Declaration of the deceased in this case, other evidences of the prosecution are not relied by the trial Court. The trial Court has only relied on the Dying Declaration and on that basis only convicted the petitioners herein. He further submitted that the left thumb impression of the deceased was not obtained in the second page of the Dying Declaration and the said Dying Declaration is also not supported and corroborated by other prosecution witnesses examined in this case. The learned Judicial Magistrate No.II, Thanjavur (P.W.12), who recorded the Dying Declaration of the deceased in this case, has also not stated clearly that the thumb impression was obtained from the deceased in the second page, in which the last answer was given by the deceased. The prosecution also differs in their evidences regarding the fact that the time of occurrence and also the place of occurrence. The case of the prosecution is not supported and corroborated by the prosecution witnesses. He also submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and the same are required to be revised and that there is *prima facie* case in favour of the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent has filed a counter affidavit and submitted that the trial Court has rightly convicted the petitioners on the basis of the evidence adduced by the prosecution and there is no *prima facie* case in this appeal. The learned Judicial Magistrate No.II, Thanjavur (P.W.12), who examined the deceased and recorded the Dying Declaration of the deceased, has deposed categorically that the thumb impression of the deceased was obtained from the deceased. However, he has no objection to grant order of suspension during pendency of this appeal.

6. 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. Accordingly, the petition is allowed on the following conditions:

<https://hcservices.ecourts.gov.in/hcservices/> Appeal bail is granted.

(ii) Substantial sentence alone is suspended on condition that the petitioners shall execute a bond for Rs.10,000/- (Rupees



ten thousand only) with two sureties for the likesum each to the satisfaction of the learned Sessions Court, Mahalir Neethimantram (Fast Track Mahila Court) Thanjavur.

(iii) The petitioners shall appear before the Court concerned on the first working day of every month at 10.30 a.m., until further orders.

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sd/-
30/10/2017

/ TRUE COPY /

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

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM
(FAST TRACK MAHILA COURT) THANJAVUR
- 2 THE JUDICIAL MAGISTRATE NO.II, THANJAVUR
- 3 THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM
- 4 THE INSPECTOR OF POLICE
THIRUCHITTAMBALAM POLICE STATION,
PUDUKKOTTAI DISTRICT
- 5 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.S.EBENEZER Advocate SR.No.33412

ORDER
IN
CRL MP (MD) No.9394 of 2017
IN
CRL A (MD) No.411 of 2017
Date :30/10/2017

SMA/RR-SM/SAR-4/01.11.2017:3P/8C

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