

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Seventh day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.10020 of 2018

IN CRL A.439/2018

1 AMUTHA

[PETITIONERS / APPELLANTS / ACCUSED]

2 YOBU

Vs

STATE BY,

[RESPONDENT]

THE INSPECTOR OF POLICE,

METTUR POLICE STATION,

METTUR,

SALEM DISTRICT.

CR.NO.85 OF 2014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.439/2018 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence and conviction in S.C.No.309 of 2014 dated 28.06.2018 passed by the learned Sessions Judge, Mahila Court, Salem pending disposal of the above CRL A.439/2018 [IN CRL.MP.NO.10020 OF 2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.439/2018 on the file of the High Court and upon hearing the arguments of M/S.R.SANKARA SUBBU Advocate for M/S.G.PAVENDHAN, Advocate for the petitioner and of MR. R.SURYA PRAKASH, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The Petitioners/Appellants have come forward with Crl. M.P. No.10020 of 2018 seeking to suspend the sentence imposed on them by the judgment dated 28.06.2018 passed in S.C.No.309 of 2014 on the file of the learned Sessions Judge, Mahila Court, Salem. After completion of trial both the accused, who were convicted for the offence punishable under section 306 of I.P.C and sentenced to undergo Rigorous Imprisonment for three years with fine of Rs.5,000/- each in default to undergo Simple Imprisonment for six months.

2. The case of the prosecution is that PW1 is the mother of the deceased. According to PW1, she is residing along with her husband, three daughters and one son at MGR Nagar, Mathaiyan Kuttai, Salem. Prior to the occurrence, the accused, A1 and A2 came to the house and had a wordy quarrel with PW1, as to how her daughter (deceased) could talk to a boy, A1 and A2 also threatened PW1 with dire consequences if her daughter (Baby) continues to talk to the boy. At that time, the deceased was also standing by the side of PW1 and on her commotion, the said Baby went inside the house and locked the door from inside and committed suicide by hanging. Immediately, the deceased was taken to the Government Hospital, Salem, there, the Doctors declared the deceased as brought dead. In connection with this incident, PW1 has lodged a complaint before the respondent Police, based on which, a case is registered in Crime No.85 of 2014. After conducting investigation, the respondent filed a charge sheet in P.R.C.No.11 of 2014 before the learned Judicial Magistrate I, Mettur and later it was committed to trial. During the course of trial, the prosecution has examined 11 witnesses and marked 13 documents. On the side of the accused, two witnesses were examined as DW1 and DW2, and after trial both were convicted and sentenced for the offence as mentioned above.

3. The learned counsel for the petitioners/Appellants would contend that the Trial Court has failed to take into account *mens rea* on the part of the appellant to commit the offence. The Trial Court did not consider the evidence of PW1, PW2, PW3, PW4 and PW10, who are related to each other and they are interested witnesses. In any event, the learned counsel for the petitioners/Appellants submits that there are arguable points involved in the present Appeal and further the Appeal is not likely to be taken up for final hearing in the near future, hence, the counsel for petitioner prayed for suspending the substantial portion of the sentence imposed on them by the Trial Court, pending disposal of the present Criminal Appeal.

4. Having regard to the submission of the learned counsel for the petitioner and the order of interim suspension passed by the Sessions Court is coming to end today, this Court is inclined to suspend the sentence imposed on the petitioners/Appellants subject to certain conditions.

5. Accordingly, the substantial sentence of imprisonment alone is suspended on condition the petitioners/Appellants execute a bond for a sum of Rs.10,000/- each with two sureties for a like sum to the satisfaction of the Trial Court and on further condition that the petitioner shall report before the Judicial Magistrate No.I, Mettur on the first working day of every English Calendar month at 10.30 a.m, until further orders.

-sd/-
27/07/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, SALEM.

2 THE JUDICIAL MAGISTRATE,
NO.I, METTUR.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
METTUR POLICE STATION,
METTUR, SALEM DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.G.PAVENDHAN Advocate on payment of necessary charges SR NO.14050

Order

in
CRL MP.10020/2018

in
CRL A.439/2018

Date :27/07/2018

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MK:27/07/2018