

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fifth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice M.V. MURALIDARAN

CRIMINAL MISCELLANEOUS PETITION No.2258 of 2018

IN CRL A.98/2018

KABILDEV

[PETITIONER / APPELLANT]

Vs

THE STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
ST.THOMAS MOUNT POLICE STATION,
CHENNAI.
CR.NO.232 OF 2014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.98/2018 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence and conviction passed by the Learned Mahila Court Judge at Chengalpattu in S.C.No.68 of 2015 dated 31.01.2018 and enlarge the petitioner on bail pending disposal of the above CRL A.98/2018 [IN CRL.MP.NO.2258 OF 2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.98/2018 on the file of the High Court and upon hearing the arguments of M/S.M.RAVICHANDIRAN, Advocate for the petitioner and of M/S.T.P.SAVITHA, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This Miscellaneous Petition is filed by the petitioner/sole accused to suspend the sentence imposed against him in S.C.No.68 of 2015 on 31.01.2018 by the learned Mahila Court Judge, Chengalpattu and enlarge him on bail, pending disposal of Crl.A.No.98 of 2018.

2. The petitioner/accused has been convicted for the offence under Section 306 IPC and sentenced him to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.25,000/-, in default to undergo further period of six months Rigorous Imprisonment. Under the said circumstances, the present petition has been filed seeking suspension of the sentence awarded.

3. The case of the prosecution is that the petitioner, on the false promise of marrying the deceased, had sexual intercourse with her and when she became pregnant, he refused to marry her, stating

that he is already a married man, thereby, due to unbearable mental agony the deceased has committed suicide by hanging. The Trial Court, after considering the oral and documentary evidence, convicted the accused for the offence as stated supra.

4. Learned counsel for the petitioner / appellant would submit that there is no direct or circumstantial evidence against the petitioner to prove the act of incitement to the commission of suicide and moreover, based on the hearsay evidence of PW1 & PW2, who did not support the prosecution version and were subsequently treated as hostile and the other prosecution witnesses, P.Ws.3 to 11 also turned hostile, even then Trial Court convicted the accused/appellant based on the evidence of the other witnesses.

5. The learned Government Advocate opposed this petition stating that the petitioner/accused, suppressing the fact of his earlier marriage, had physical relationship with the deceased, who was a Woman Constable and deceived her; that as per the DNA test report, it came to light that the petitioner is the biological father of the four months foetus of the deceased; that on the basis of the incriminating materials against the petitioner/sole accused, the trial Court has rightly convicted him and therefore, the accused is not entitled to the grant of suspension of sentence, as he has committed a heinous offence of abetment to suicide and the petition is liable to be dismissed.

6. In the light of the submissions made on either side hereinabove, taking into account the fact that he has got some valuable points to argue the appeal and also the fact that the appeal is not likely to be heard in the near future, this Court is inclined to grant suspension of the sentence to the petitioner / sole accused.

7. In the result,

a) this petition is ordered;

b) the sentence imposed against the petitioner in S.C.No.68 of 2015 on 31.01.2018 by the learned Mahila Court Judge, Chengalpattu is suspended till the disposal of Criminal Appeal No.98 of 2018;

c) the petitioner shall be released on bail on his 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, Alandur;

d) and on further condition that he shall appear before the said Court weekly once, viz., on the first working day of every week at 10.30 a.m until further orders.

-sd/-
05/06/2018

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 MAHILA COURT JUDGE,
CHENGALPATTU.

2 THE JUDICIAL MAGISTRATE,
ALANDUR.

3 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE,
ST.THOMAS MOUNT POLICE STATION,
CHENNAI.

C.C. to M/S.M.RAVICHANDIRAN Advocate on payment of necessary charges

Order

in
CRL MP.2258/2018

in
CRL A.98/2018

Date :05/06/2018

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MK:08/06/2018