

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of August Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.9103 of 2018

IN CRL A.395/2018

SAKTHIVEL,

[APPELLANT/1ST ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE DEPUTY SUPERINTENDENT OF POLICE,
NAMAKKAL SUB DIVISION,
SENDAMANGALAM, POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.665 OF 2012.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.395 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence made in S.C.No.35 of 2016 on the file of Court of Sessions (Fast Track Mahila) Judge, Namakkal Order dated 19.06.2018 and release the petitioner Appellant Accused No.1, on bail, pending disposal of the above Crl.Appeal.No.395 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.395 of 2018 on the file of the High Court and upon hearing the arguments of M/S.A.PADMANABAN, Advocate for the petitioner and of Mr.R.SURYA PRAKASH, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The petitioner, who is the first accused in S.C.No.35 of 2016, stands convicted by the learned Sessions (Fast Track Mahila) Judge, Namakkal, for the offence under Section 498(A) IPC and sentenced to undergo rigorous imprisonment for two years and to pay a fine of Rs.2,000/- in default, to undergo rigorous imprisonment for six months and convicted for the offence under Section 304(B) IPC and sentenced to undergo rigorous imprisonment for ten years and to pay a fine of Rs.2,000/- in default, to undergo rigorous imprisonment for six months and also convicted for the offence under Section 4 of DP Act and sentenced to undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/- in default, to undergo rigorous imprisonment for three months and the above sentences were ordered to run concurrently.

2. The case of the prosecution is that the deceased and the petitioner herein fell in love with each other and they got married about 1 1/2 years prior to the occurrence. The parents of the deceased was much against the marriage, since the petitioner herein was already married. The elders of the locality from both sides came and settled the matter through panchayat and the petitioner's father gave 1 acre of land to the deceased and the same was registered in the name of the petitioner and the deceased. Subsequently, the petitioner herein and accused Nos.2 to 4 in S.C.No.35 of 2016 started demanding and harassing the deceased to give more money and jewels and as a result of which, the deceased had committed suicide by consuming insecticide and then latter on hanged herself to death.

3. Learned counsel appearing for the petitioner/first accused would submit that the petitioner was convicted by the learned Sessions (Fast Track Mahila) Judge for the offences under Sections 498(A), 304(B) IPC and Section 4 of DP Act. It is further submitted that even at the time of marriage between the petitioner/first accused and the deceased, the parents of the accused have registered 1 acre of land in the name of the petitioner and the deceased and therefore, the plea of demand of dowry and consequent dowry death are all imaginary and not proved in the manner known to law and hence, he seeks to suspend the sentence passed by the trial Court pending appeal.

4. Learned Government Advocate would submit that the evidence of P.W.1 and P.W.2 is clear and cogent with regard to demand of dowry and subjecting the deceased to the harassment and referred to the finding of the trial Court. It is also submitted by the learned Government Advocate that the medical witness P.W.10-Dr.Jayakumar had deposed in his evidence stating that in the viscera of the deceased, organo phosphorous is found besides there was a coir pressing mark to the extent of 2 c.m. found in front portion of the neck of the deceased and accordingly, P.W.10-Dr.Jayakumar has given an opinion that the deceased had died due to hanging.

5. After going through the evidence of P.W.1 and P.W.2, the parents of the deceased and the evidence of P.W.13-R.D.O. and the Investigating Officer and also taking note of the clear and cogent evidence of the private prosecution witnesses, it is seen that the petitioner herein/first accused was already married and the deceased and the petitioner have developed illegal intimacy and there was a fight between them and the matter was settled by compromise by the villagers and out of that compromise only, 1 acre of land was given by the parents of the accused and the same was registered in the joint name of the petitioner and the deceased and in view of the certain discriminating evidence available in the evidence of the private prosecution witnesses, I am not inclined to grant suspension of sentence to the petitioner pending appeal.

6. In this view of the matter, this miscellaneous petition, seeking suspension of sentence, is dismissed. However, liberty is

given to the petitioner/first accused to move the Court at a later point of time.

-sd/-
01/08/2018

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 (FAST TRACK
MAHILA) JUDGE, NAMAKKAL.

2 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP BY ITS,
THE DEPUTY SUPERINTENDENT OF POLICE,
NAMAKKAL SUB DIVISION,
SENDAMANGALAM, POLICE STATION,
NAMAKKAL DISTRICT.

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

Order

in
CRL MP.9103/2018

in
CRL A.395/2018

Date :01/08/2018

WEB COPY