

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.9291 of 2018

IN CRL A.399/2018

RAVIKUMAR

[APPELLANT/ACCUSED]

vs

STATE BY,

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
MANTHARAKUPPAM POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.348 OF 2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.399 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence which was imposed by the Learned Mahila Court Sessions Judge, Cuddalore, Cuddalore District in S.C.No.211 of 2014 dated 19.06.2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.399 of 2018 on the file of the High Court and upon hearing the arguments of MR.M/S.A.ARASU GANESAN, Advocate for the petitioner and of MR. M/S.SURYA PRAKASH.R GOVERNMENT ADVOCATE on behalf of the Respondent the court made the following order:-

The petitioner/appellant is arrayed as sole accused in S.C.No.211 of 2014 on the file of the learned Sessions Judge, Mahila Court, Cuddalore. He has been convicted for the offence under Section 498-A of IPC and sentenced to undergo simple Imprisonment for three years and to pay a fine of Rs.10,000/-, in default to undergo Simple Imprisonment for six months and convicted under Section 306 of IPC and sentenced to undergo seven years Simple Imprisonment and to pay a fine of Rs.25,000/-, in default to undergo one year Simple Imprisonment, vide impugned judgment dated 19.06.2018. However, the sentences ordered to run concurrently and also granted set-off under section 428 Cr.P.C.. The petitioner prays for suspension of sentence.

2 The learned counsel for the petitioner submitted that while in the dying declaration said to have been recorded her complaint by

PW.10-the Sub Inspector of Police, there was a thump impression. However, the dying declaration given under Ex.P3, said to have been given before the Judicial Magistrate-PW.5, wherein the Judicial Magistrate has stated that in view of the burn injury in the left thump impression could not be taken and hence contended that both dying declaration is not advancing the case of the prosecution.

3 The learned Government Advocate made a submission in support of the judgment of the Trial Court and opposed for grant of bail.

4 The case of the prosecution is that the deceased Mahalakshmi was the wife of the accused Ravikumar. They lived in Periyakurichi village. The couple had a daughter named Sumithra and she was 11 years old. The accused had enmity with the brother of the deceased due to an unlawful claim made by the accused in the family property of Mahendran who is the brother of the deceased. The accused had been demanding the deceased to compel her brother Mahendran to transfer the property in his name. The deceased was subjected to physical and psychological violence by the accused to coerce Mahendran to part with the property. She was also emotionally threatened. The continuous harassment by the accused led the deceased to lodge a complaint with the all women police, Neyveli in 2004, but it ended in a compromise. Later in August 2004, since the harassment continued the deceased lodged a complaint again. The said case also ended in compromise. Meanwhile Mahendran, the brother of the deceased filed a Civil Suit against the accused. Upon receipt of summons in the civil case, the accused again started treating the deceased with cruelty. On 25.10.2013, the deceased Mahalakshmi had gone to the house of Mahendran and returned at about 04.00 p.m., she was stopped by the accused on the door steps of the house. The accused questioning her fidelity told her that she was a dog, sleeping with someone often. The accused had further told that only when she was seen naked by all, her brother would withdraw the case. So saying the accused pulled and removed the saree of the deceased. The deceased went inside the house. The accused followed her and asked her as to why she was living and told her to go and die. Since, her modesty was outraged and was told to die by her husband she had gone into a psychological trauma. She got vexed with the life and at about 9.00 p.m., on the same day (25.10.2013) she poured Kerosene oil on her, set herself ablaze. She was taken to N.L.C.Hospital first and thereafter JIPMER Hospital for treatment. On 28.10.2013 at about 11.00 a.m., she died of the complications of the burn injuries at the hospital.

5 The prosecution examined PW.1 to PW.11 and marked as Exhibits P1 to P16 and marked Material Objects as Mos.1 to Mos.7.

6 After perusing the Ex.P3 -dying declaration recorded by PW.5-Judicial Magistrate and in view of the presence of clear and cogent evidence of PW.1, PW.2 and PW.3, I am not inclined to grant

suspension of sentence for the present and hence, this Criminal Miscellaneous Petition is dismissed with liberty to move the bail application in future.

-sd/-
06/09/2018

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 - SESSIONS JUDGE,
CUDDALORE, CUDDALORE DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

4 THE INSPECTOR OF POLICE,
MANTHARAKUPPAM POLICE STATION,
CUDDALORE DISTRICT

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

सत्यमेव जयते Order

in
CRL MP.9291/2018

in
CRL A.399/2018

Date :06/09/2018

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cm 11/09/2018