

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Nineteenth day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

and

The Hon`ble Mrs Justice S. RAMATHILAGAM

CRIMINAL MISCELLANEOUS PETITION No.13980 of 2018

CRL.A.NO.634 OF 2018

MANI @ MANIKANTAN

[PETITIONER]

Vs

THE INSPECTOR OF POLICE (L AND O), [RESPONDENT]
E-3, TEYNAMPAT POLICE STATION,
TEYNAMPET,
CHENNAI-600 002.
CR.NO.547 OF 2012

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.634/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence in SC No.254 of 2012 on the file of the Sessions Judge, Mahalir Neethimandram, Chennai

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.634/2018 on the file of the High Court and upon hearing the arguments of M/S.J.B.SOLOMON PETER KAMALDOS Advocate for the petitioner and of MR.K.PRABAKAR ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by **C.T.SELVAM, J**)

Petitioner faced Trial in SC.No.254/2012 on the file the learned Sessions Judge, Mahalir Neethimandran, Chennai. The Trial Court under Judgment dated 20.09.2018 convicted the petitioner for offence under sections 302 & 294(b) IPC & Sec.4 of Tamil Nadu Prohibition of Harassment of Woman Act and sentenced him to undergo life imprisonment and fine of Rs.15,0000/- i/d 6 months R.I for offence u/s 302 IPC, 3 months R.I for offence u/s. 294(b) IPC i/d 6 months R.I . Hence, the petitioner seeks suspension of sentence. Learned counsel for the petitioner would submit that the petitioner is confined at Central Prison-I, Puzhal, Chennai.

2. Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioner.
<https://hcservices.ecourts.gov.in/hcservices/>

3. The case of the prosecution is that the accused who earlier had an affair with the deceased had done her to death stating that none other could have any relationship with her.

4. Learned counsel for petitioner submits that PW1, PW2 and PW3 are the mother, sister and father of the deceased and are projected as eye-witness. Their presence is unlikely give the evidence of PW4 another alleged eye-witness, whose evidence is quite contradicting to that of PW1, PW2 and PW3. PW8 is the owner of the house, wherein both the accused and deceased lived in separate portions. PW8 has deposed that there was a Beeda shop immediately near the place of occurrence and the owner there of would have been the person most likely to have witnessed the occurrence. Such person has not been examined. Further, PW4 has spoken to having witnessed the occurrence from a Thaneer Pandhal but the rough sketch and observation Mahazar do not inform the presence of any such Thaneer Pandhal. Further while PW11 would speak to the apprehension and arrest of the accused from inside his house immediately after the occurrence when police arrived at the scene which is not in keeping with the prosecution case of arrest at the Valluvar Kottam at 4am the next day. The learned counsel would windup submissions by stating that while it is the admitted case of the prosecution that PW4 accompanied PW1, PW2 and PW3 in taking the deceased to hospital, his bloodstained clothes have not been recovered and PW4 has admitted to his clothes indeed having been blood stained owing to handling the deceased.

5. Considering the facts and circumstances of the case and in view of the fact that the petitioner has been in custody, that there are several infirmities in the prosecution case and there are arguable points involved in the appeal, as contended by learned counsel for petitioner, and further the appeal is not likely to be taken up for final hearing in the near future, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Mahila Judge, Chennai and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30.a.m. pending appeal.

-sd/-

19/11/2018

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
MAHALIR NEETHIMANDRAN, CHENNAI

2 THE MAHILA JUDGE
CHENNAI

3 THE SUPERINTENDENT,
CENTRAL PRISON-I. PUZHAL, CHENNAI

4 THE INSPECTOR OF POLICE (L AND O),
E-3, TEYNAMPAT POLICE STATION,
TEYNAMPET,
CHENNAI-600 002.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 C.C. to M/S.J.B.SOLOMON PETER KAMALDOS Advocate on payment
of necessary charges SR.NO. 21777

Order

in

CRL MP.13980/2018

CRL.A.NO.634 OF 2018

Date :19/11/2018

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