



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Fourth day of September Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.M.SUNDRESH
and
The Hon`ble Mr.Justice N.SATHISH KUMAR

CRL MP(MD) No.132 of 2018
IN
CRL A(MD) No.13 of 2018

GOVINDARAJ

... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
BODI TOWN CIRCLE POLICE STATION,
THENI DISTRICT.
(CRIME NO. 524/2010)

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed Learned Fast Track Mahila Court, Theni SC.No.48/2011 dated 28/06/2017 and enlarge the appellant on bail pending disposal of the above Crl.A.,

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.D.SADIQ RAJA, Advocate for the petitioner and of MR.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court made by **M.M.SUNDRESH, J.,**]

The petitioner is arrayed as the sole accused in S.C.No.48 of 2011, on the file of the Fast Track Mahila Court, Theni. The deceased is none of than the wife of the accused. The accused was convicted for the offence under Section 302 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for life.

2. The case of the prosecution is that pursuant to a wordy quarrel, the petitioner attacked the deceased and thereafter, poured kerosene on her. The conviction was rendered by the Trial Court by placing reliance upon the dying declaration given by the deceased and the evidence of PW-1 and PW-2.



3. The learned counsel appearing for the petitioner would submit that even the evidence of PW-1 and PW-2 would show that it is the petitioner, who took the deceased from the first floor, after extinguishing the fire. The dying declaration does not inspire the confidence of the Court. The petitioner has a minor girl, aged about eight years and he has to take care of her. The petitioner has been in incarceration for more than one year and two months.

4. The learned Additional Public Prosecutor would submit that the conviction has been rendered based upon the dying declaration. EX-P10 also corroborates the case of the prosecution. The evidence of PW-1 and PW-2, coupled with the dying declaration is enough to render conviction.

5. We have considered the above submissions and perused the records carefully.

6. Considering the said submission, we are of the view that there are sufficient grounds available for considering the case of the petitioner for suspension of sentence. The petitioner has been in incarceration for about one year and two months. There is a minor child to be taken care of by the petitioner. Even the evidence of PW-1 and PW-2 would *prima facie* show that it is the petitioner, who took the deceased after extinguishing the fire. Considering the above, this Court deems it appropriate to suspend the substantive portion of sentence imposed on the petitioner.

7. Accordingly, the present Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended in respect of the petitioner and he is directed to be enlarged on bail on condition that he 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 Judicial Magistrate, Bodinayakanur and on further condition that the petitioner shall report before the said Court on the first working day of every English Calendar month at 10.30 a.m. pending appeal.

sd/-
24/09/2018

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDGE,
<https://hcservices.ecourts.gov.in/hcservices/>
THE FAST TRACK MAHILA COURT, THENI



2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
BODINAYAKKANUR

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT

4 THE INSPECTOR OF POLICE,
BODI TOWN CIRCLE POLICE STATION, THENI.

5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to MR.D.SADIQ RAJA, Advocate SR.No.18095

ORDER
IN
CRL MP (MD) No.132 of 2018
IN
CRL A (MD) No.13 of 2018
Date :24/09/2018

PK/MMS/SAR-4/01.10.2018 : 3P/8C