



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

Wednesday, the Twenty Fourth day of January Two Thousand Eighteen

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PRESENT

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) No.8 of 2018
IN CRL A(MD) No.1 of 2018

1 N.ARUMUGAM,
2 N.MUTHURAMALINGAM,

... PETITIONERS/APPELLANTS

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
SIKKAL POLICE STATION,
RAMANATHAPURAM DISTRICT.
(CRIME NO.16 OF 2013)

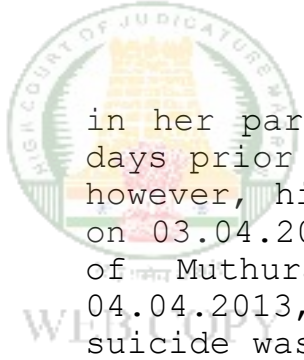
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence and conviction passed by the learned Principal and District and Sessions Judge, (i/c-cum-Fast Track Mahalir Court, Ramanathapuram made in S.C.No.71/2014 dated 06.12.2017 pending disposal of the above Criminal Appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.THIRUVADIKUMAR for M/S.W.PAMELIN, Advocate for the petitioners and of Mrs.S.BHARATHI, Government Advocate for the Respondent the court made the following order:-

The petitioners have been convicted in S.C.No.71 of 2014, by the learned Principal District and Sessions Judge (i/c), Fast Track Mahila Court, Ramanathapuram, on 06.12.2017, for the offence under Section 306 I.P.C., and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.25,000/- each, in default to undergo one year rigorous imprisonment. Challenging the same, the petitioners have filed Crl.A.(MD) No.1 of 2018 and the present miscellaneous petition seeking for suspension of their sentence and bail.

2. It is the specific case of the prosecution that Muthuramalingam (A2) got married to the deceased Chamundeeswari on 29.06.2012 and ten days after marriage, Muthuramalingam (A2) went abroad, since he was working in Dubai. While Muthuramalingam (A2) was in Dubai, he came to know that the deceased Chamundeeswari was suffering from some ailments and taking treatment. It is the further case of the prosecution that the deceased Chamundeeswari was



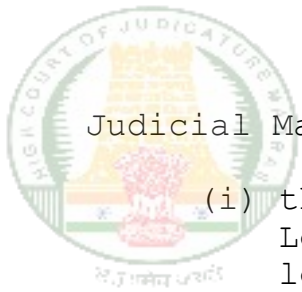
in her parental home and Muthuramalingam (A2) returned abroad five days prior to 04.04.2013 and asked his wife to come to his home, but however, his wife refused to join him. However, it is alleged that on 03.04.2013, the deceased Chamundeeswari was dropped in the house of Muthuramalingam (A2) and that she committed suicide on 04.04.2013, at about 06.30 a.m., by self-immolation. Since the suicide was within seven years of marriage, inquest was conducted by the concerned Revenue Divisional Officer and it was found that the death was not on account of dowry demand or cruelty. Therefore, no charge under Section 304-B and 498-A I.P.C., was framed against the accused and the Trial Court framed a charge only under Section 306 I.P.C.

3. The learned counsel for the petitioners submitted that the accused had not done any act within the meaning of Section 107 I.P.C., for abetting the suicide of Chamundeeswari (deceased). In fact, even according to the prosecution, Arumugam (A1) was not in the matrimonial home and she had gone to her native place. The evidence of the independent witness, namely, Subramani (P.W.9) clearly shows that he saw smoke coming out from the house of Muthuramalingam (A2) and when he along with some neighbours went there, they found Chamundeeswari on fire and all of them doused the fire. Even at that time, neither Arumugam (A1) nor Muthuramalingam (A2) were present in the place of occurrence.

4. Under normal circumstances, in a case of this nature, this Court would not suspend the sentence of the accused within such a short time of their conviction. However, in this case, no dying declaration of the deceased Chamundeeswari has been recorded, may be because she was not in a condition to give any statement as could be seen from the evidence of Subramani (P.W.9). Of course, absence of dying declaration does not mean that the alleged offence has not been taken place. However, it is the specific stand of the accused that the deceased Chamundeeswari was suffering from serious health problem and in order to establish the same, the accused have examined Dr.Dhanalakshmi as D.W.1 and marked the medical records of the deceased Chamundeeswari as Exs.D1 to D4.

5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners that there are several infirmities in the prosecution case in respect of the petitioners and that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioners herein are entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are ordered to be released on bail on each of them executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned



Judicial Magistrate, Mudukulathur and on further conditions that:

(i) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(ii) the petitioners shall appear before the Trial Court on the first working day of every month until the disposal of the appeal and if they are not able to appear before the Trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of their absence, as directed by the Trial Court.

sd/-

24/01/2018

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

TO

- 1 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE (IC) FAST TRACK COURT, RAMANATHAPURAM
- 2 THE JUDICIAL MAGISTRATE, MUDUKULATHUR
- 3 THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM DISTRICT
- 4 THE INSPECTOR OF POLICE,
SIKKAL POLICE STATION, RAMANATHAPURAM DISTRICT.
- 5 THE SUPERINTENDENT
SPECIAL PRISON FOR WOMEN (1ST PETITIONER),
CENTRAL PRISON, MADURAI
- 6 THE SUPERINTENDENT
CENTRAL PRISON, (2ND PETITIONER) MADURAI
- 7 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to M/S.W.PAMELIN Advocate SR.No.1243

ORDER

IN

CRL MP(MD) No.8 of 2018

IN

CRL A(MD) No.1 of 2018

Date :24/01/2018