



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

Tuesday, the Ninth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Dr.Justice S.VIMALA
and

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.10338 of 2017

IN

CRL A(MD) No.363 of 2017

RATHINA KUMAR

... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
THIRUCHITRAMBALAM POLICE STATION,
THIRUCHITRAMBALAM,
THANJAVUR DISTRICT.
CRIME NO. 100/2010.

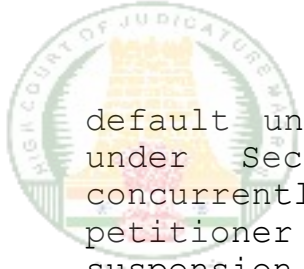
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Enlarge the Petitioner on bail by SUSPENDIG THE SENTENCE IMPOSED UPON him in S.C No. 378/2011 on the file of the Sessions Judge. Mahalir Neetehimandram(Fast Track Mahila Court) Thanjavur, Thanjavur district dated 09.08.2017 pending disposal of the main Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.THIRUVADI KUMAR, Advocate for the petitioner and of MR.K.S.DURAI PANDIAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **S.VIMALA, J**)

The petitioner/appellant is the sole accused in S.C.No.378 of 2011 on the file of learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila) Thanjavur, Thanjavur District. He has been convicted for the offence under Section 498(A) IPC and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for three months and sentenced to undergo imprisonment for life for offence under Section 302 IPC and to pay a fine of Rs.1,000/-, in default, to undergo three months Simple imprisonment and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.1,000/- in



default undergo simple imprisonment for three months for offence under Section 201 IPC. The sentences are ordered to run concurrently. Challenging the said conviction and sentence, the petitioner has come up with this appeal. Pending appeal, he seeks suspension of the substantive sentence of imprisonment imposed on him.

2. We have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent and we have also perused the records carefully.

3. The learned counsel for the petitioner would submit that it is the case of accidental death, in which, while attempting to save his wife, the accused also sustained injuries and it is an admitted fact that the accused also took treatment for 15 days at the Government Hospital and so, the theory of murder as propounded by the prosecution cannot be true.

4. The learned Additional Public Prosecutor vehemently oppose this petition for suspending the sentence.

5. A perusal of the records would go to show that the accused had been admitted in the Government Hospital for treatment for his injuries. The only witness, who has spoken about the incident, is the child witness, who is aged three years at the time of occurrence and who was aged 10 years at the time of actual examination before the Court. It is also an admitted fact that excepting the child witness, there is no other witness to speak about the incident.

6. Considering the fact that the accused is stated to be responsible for maintaining his three children and also considering the fact that there are arguable points in favour of the petitioner and taking the appeal may take some more time, we are inclined to suspend the sentence of imprisonment alone imposed on the petitioner pending appeal.

7. Accordingly, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner is directed to be enlarged on bail, on the following conditions:

The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Pattukottai, and on further condition that the petitioner shall report before the committal Court at 10.30 a.m., on the first working day of every English Calendar Month, until further orders.

sd/-

09/01/2018

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TO

1 THE SESSIONS JUDGE,
MAHALIR NEETEHIMANDRAM (FAST TRACK MAHILA COURT),
THANAJAVUR, THANJAVUR DISTRICT.

2 THE JUDICIAL MAGISTRATE, PATTUKKOTTAI.

3 THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR DISTRICT AT KUMBAKONAM

4 THE INSPECTOR OF POLICE, THIRUCHITRAMBALAM POLICE STATION,
THIRUCHITRAMBALAM, THANJAVUR DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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

+1. C.C. to M/S.A. THIRUVADI KUMAR Advocate SR.No.350

ORDER

IN

CRL MP (MD) No.10338 of 2017

IN

CRL A (MD) No.363 of 2017

Date : 09/01/2018

PK/RR/SAR-1/11.01.2018 : 3P/8C