



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

Monday, the Sixteenth day of July Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice C.T.SELVAM

and

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.3374 of 2018
IN CRL A(MD) No.209 of 2018

NALLAIAH

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KARAIYUR POLICE STATION,
PONAMARAVATHI TALUK,
PUDUKKOTTAI DISTRICT.
CRIME NO.2 OF 2016

... 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 imposed in S.C.No.127/2016 dated 27/03/2018 on the file of Mahila Court, Pudukkottai and enlarge the petitioner on bail pending disposal of the above Crl.A.

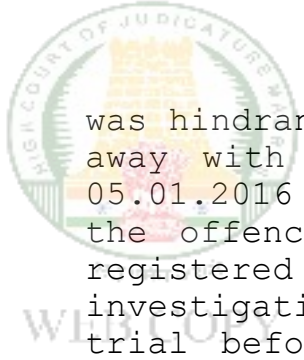
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.A.ARUN PRASAD, Advocate for the petitioner and of Mr.R.ANANDRAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court passed by **C.T.SELVAM, J.**]

Petitioner is arrayed as accused No.2 in S.C.No.127 of 2016, on the file of the Learned Sessions Judge, Mahila Court, Pudukkottai and under judgment dated 27.03.2018, he has been convicted for the offences under Sections 120-B r/w 302, 302 and 201 I.P.C. and sentenced to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one year R.I. for each of the offences under Section 120-B r/w 302 and 302 I.P.C., and to undergo 2 years R.I. and to pay a fine of Rs.1,000/-, in default, to undergo 6 months R.I. for offence under Section 201 I.P.C. Aggrieved against, petitioner has filed the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.

2. Heard learned counsel for petitioner and learned Additional Public Prosecutor appearing for respondent.

3. The case of the prosecution is that petitioner/A2 is the paramour of A1, A1 is the wife of deceased and since the deceased



was hindrance to their illegal relationship, accused conspired to do away with the deceased and in pursuance of their conspiracy on 05.01.2016 at 11.30 p.m. they murdered the deceased and to screen the offence they set up as if he committed suicide. A case was registered on the next day morning and the same on completion of investigation, filing of final report and committal came up for trial before learned Sessions Judge, Mahila Court, Pudukottai in S.C.No.127 of 2016 and under judgment dated 27.03.2018, Accused was convicted and sentenced as stated above.

4.Learned counsel for the petitioner submits that according to the prosecution, A1/wife of the deceased and this petitioner/A2/her paramour have done away with the deceased. The body of the deceased was found at his house. A1, the wife of the deceased stands convicted. So also this petitioner. What is put against the petitioner is that his blood stained clothes were recovered pursuant to his confession on 11.01.2016. However, P.Ws.1 and 2 have spoken to having seen the petitioner on the very date of occurrence. Although there were no eye-witnesses to the occurrence, this petitioner's name had found place in the F.I.R. itself. The last seen theory was also invoked by the prosecution through the evidence of P.W.13. P.W.13 had been examined five months after the occurrence and therefore, his evidence would be totally unreliable.

5. Per contra, learned Additional Public Prosecutor, contended that the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. He strongly opposed to the grant of the relief of suspension of sentence to petitioner.

6.Considering the facts and circumstances of the case and the submission of both sides, this Court considers it appropriate to suspend the substantive portion of sentence imposed on petitioner.

7.Accordingly, the substantive sentence of imprisonment alone is suspended in respect of petitioner / accused 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 Sessions Judge, Mahila Court, Pudukottai, and on further condition that petitioner shall report before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

sd/-
16/07/2018

/ TRUE COPY /



TO

1 THE SESSIONS JUDGE, MAHILA COURT, PUDUKOTTAI.

2 THE JUDICIAL MAGISTRATE, ARIYALUR.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
ARIYALUR DISTRICT.

4 THE INSPECTOR OF POLICE, KARAIYUR POLICE STATION,
PONAMARAVATHI TALUK, PUDUKKOTTAI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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

+1. C.C. to Mr.A.ARUN PRASAD Advocate SR.No.13090

ORDER

IN

CRL MP (MD) No.3374 of 2018

IN

CRL A (MD) No.209 of 2018

Date :16/07/2018

MS/MMS/SAR-1/18.07.2018/3P.8C