



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

Thursday, the Second day of August 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.5323 of 2018

IN

CRL A(MD) No.304 of 2018

SHAKUL HAMEED

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
THUCKALAY POLICE STATION,
KANYAKUMARI DISTRICT.

... RESPONDENT/ RESPONDENT

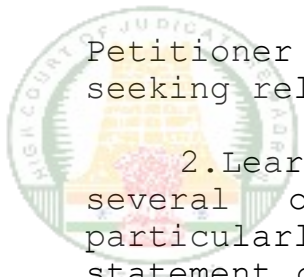
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed in S.C.No.66/2012 on the file of the Mahila Court, Kanyakumari District, Nagercoil dated 18/06/2018 sentencing the petitioner/ appellant to undergo Life Imprisonment and to pay a fine of Rs.10,000/- in default to undergo 6 months Rigorous Imprisonment for the offence under section 302 IPC, and also his conviction and sentence to undergo one year Rigorous Imprisonment for the offence under section 406 IPC and directed all the sentences to run concurrently, and enlarge on bail pending disposal of the main CrI.A

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.VEERAKATHIRVAN, Senior Counsel Mr.T.NELSON, Advocate for the petitioner and of Mr.S.CHANDRASEKARN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

Petitioner is arrayed as sole accused in S.C.No.66 of 2012 on the file of Mahila Court, Kanyakumari District, Nagercoil, and under judgment dated 18.06.2018 he has been convicted for offences u/s. 302 and 406 IPC and sentenced as follows:

Offence	Sentence
302 IPC	Life imprisonment and fine of Rs.10,000/- i/d 6 months R.I.
406 IPC	1 year R.I.



Petitioner has come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.

2.Learned Senior Counsel for petitioner besides pointing out several other infirmities in prosecution case would harp particularly that Investigating Officer P.W.22 had admitted to statement of the deceased recorded by Sub Inspector of Police viz., Thangasamy at hospital not having been produced before Court. Such person had not even been examined as witness. P.W.16 Doctor, who admitted the deceased in the hospital had spoken to the deceased informing that she came to suffer burns when boiling water. Submitting as above, learned counsel prays for the grant of relief of suspension of sentence to petitioner herein.

3.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.

4.Considering the facts and circumstances of the case, that it is not possible for the Court to take the Criminal Appeal in the nearest future, that there are arguable points and according to learned counsel for petitioner, there are several infirmities in the prosecution case in respect of petitioner, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to petitioner herein. Keeping in view of these facts, we are inclined to suspend the substantive portion of sentence imposed on petitioner.

Accordingly, the substantive sentence of imprisonment alone is suspended in respect of 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 No.I, Padmanabhapuram, 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/-

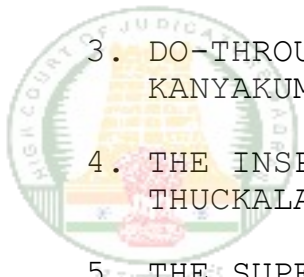
02/08/2018

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

TO

1. THE JUDGE, MAHILA COURT,
KANAYAKUMARI DISTRICT AT NAGERCOIL.



3. DO-TROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
4. THE INSPECTOR OF POLICE,
THUCKALAY POLICE STATION, KANYAKUMARI DISTRICT.
5. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.T.NELSON Advocate SR.No.14792

ORDER
IN
CRL MP (MD) No.5323 of 2018
IN
CRL A (MD) No.304 of 2018
Date :02/08/2018

MS/PN/SAR-4/03.08.2018/3P.8C