



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

Monday, the Twentieth day of August Two Thousand Eighteen

PRESENT

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

CRL MP(MD) No.5984 of 2018
IN
CRL A(MD) No.336 of 2018

SELVARAJ

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE THROUGH,
THE INSPECTOR OF POLICE,
PALAVER POLICE STATION,
TIRUNELVELI DISTRICT
IN CR NO. 80 OF 2007

... RESPONDENT/RESPONDENT/COMPLAINANT

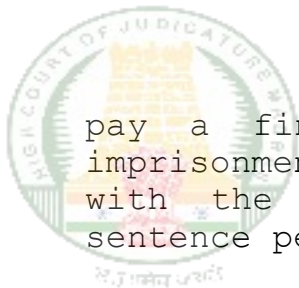
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed against the appellant in SC.No.43/2008 on the file of the Honourable I Additional District Sessions Judge, Tirunelveli dated 07/04/2016 and release him on bail till the disposal of the main appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ALAGUMANI, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondents, the court made the following order:-

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

The petitioner is the sole accused in S.C.No.43 of 2008 on the file of the learned First Additional District Sessions Judge, Tirunelveli, for the major offence punishable under Section 302 of the Indian Penal Code.

2. The case of the prosecution is that pursuant to a wordy quarrel, the petitioner poured kerosene on the deceased, who was none other than his wife and committed the offence. The Trial Court convicted the petitioner for the offence punishable under Section 302 IPC and sentenced him to undergo imprisonment for life and to



pay a fine of Rs.1,000/- , in default, to undergo rigorous imprisonment for one year. Hence, the petitioner has come forward with the present Miscellaneous Petition seeking suspension of sentence pending appeal.

3. The learned counsel for the petitioner would submit that except P.W.1, who is the brother of the deceased, all others turned hostile including P.W.2, who is the mother of the deceased. The deceased was taken to the Hospital by the petitioner and she died after 8 days. The petitioner was with the deceased for the aforesaid period. There are material contradictions in the evidence of P.W.1. The petitioner has been in incarceration for more than 3^{1/2} years. Hence, the learned counsel prays for suspension of sentence.

4. The learned Additional Public Prosecutor appearing for the State would submit that the conviction and sentence has been rendered based upon the dying declaration given by the deceased coupled with the evidence of P.W.1. Hence, this Miscellaneous Petition is liable to be dismissed.

5. Considering the facts and circumstances of the case and the submission of both sides and also considering the fact there are arguable points involved in this appeal and the petitioner has been in incarceration for more than 3^{1/2} years and P.W.2, who is the mother of the deceased, has also turned hostile, we deem it appropriate to suspend the substantive portion of sentence imposed on the petitioner.

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

sd/-

20/08/2018

/ TRUE COPY /

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

TO

1 THE JUDICIAL MAGISTRATE, VALLIYUR

<https://hcservices.ecourts.gov.in/hcservices/>



2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT

3 THE INSPECTOR OF POLICE,
PALAVER POLICE STATION, TIRUNELVELI DISTRICT

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

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

+1. C.C. to MR.R.ALAGUMANI Advocate SR.No.15779

ORDER
IN
CRL MP (MD) No.5984 of 2018
IN
CRL A (MD) No.336 of 2018
Date :20/08/2018

PK/VR/SAR-1/23.08.2018 : 3P/7C