



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

Friday, the Twenty Eighth day of September Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.7745 of 2018

IN

CRL A(MD) No.440 of 2018

EASWARI

... PETITIONER/APPELLANT

Vs

STATE REP. BY

THE INSPECTOR OF POLICE,
D2, SELLUR(LAW AND ORDER) POLICE STATION,
MADURAI CITY,
(CR NO.221/2010)

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence of imprisonment imposed by the learned Sessions Judge, Mahalir Neethimandram, (FAC), Madurai in S.C.NO.244 of 2011, by the judgement dated 12/09/2018 and enlarge the petitioner / accused on Bail pending disposal of 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 MR.B.ANANDAN, Advocate for the petitioner and of MR.A.ROBINSON, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

The petitioner is arrayed as A2 before the Court below. The petitioner is the sister-in-law of the deceased. It is seen from the records that originally charge was framed under Section 302 IPC with an alternate charge under Sections 498A and 304B IPC. It is not known as to how Section 302 IPC can be an alternate charge for Sections 498A and 304B IPC. From the records it is seen that the initial version given by P.W.1 and P.W.2 is that their daughter was beaten and as result of which, she died in the incident. Thereafter, the version was changed to that of a dowry demand. Therefore, the Court below has convicted the husband and sister-in-law of the deceased by taking advantage of the presumption under Section 113B of the Evidence Act. The evidence does not prima facie show that there was a dowry demand from this petitioner soon before the death of the deceased. That apart, it seems that the incident happened within five months from the date of marriage and in the first three months, even according to P.W.1 the husband and wife were living alone.



2. Several arguable grounds have been raised in this appeal. This Court is not in a position to take up this Criminal Appeal immediately and it will take some more time to hear this case finally.

3. In the facts and circumstances of the case, the sentence imposed by the trial Court in S.C.No.244 of 2011, by judgment dated 12.09.2018, is hereby set aside and the petitioner is directed to be enlarged on bail subject to the following conditions:-

"(a) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the trial Court with two sureties for a like sum.

(b) the petitioner shall report before the trial Court once in a month on the first working day, pending disposal of the Criminal Appeal."

sd/-
28/09/2018

/ TRUE COPY /

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

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, (FAC), MADURAI.
- 2 THE INSPECTOR OF POLICE,
D2, SELLUR (LAW AND ORDER) POLICE STATION,
MADURAI CITY.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.B.ANANDAN Advocate SR.No.18551

ORDER
IN
CRL MP (MD) No.7745 of 2018
IN
CRL A (MD) No.440 of 2018
Date : 28/09/2018