

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Nineteenth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.3055 OF 2019

IN CRL.A.NO.120 OF 2019

P.S.PARAMASIVAM

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
E-5 SHOLAVARAM POLICE STATION,
CHENNAI
CR.NO.890 OF 2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.120 OF 2019 on the file of the High Court, the High Court will be pleased to grant the appellant bail by suspending the sentence imposed by the Hon'ble Court of Magalir Neethi Mandram (Fast Track Court, Mahila Court), Tiruvallur in Judgment dated 23.08.2018 made in S.C.No.1 of 2016 pending disposal of this Appeal. [IN CRL.MP.NO.3055 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.120 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.K.SHANKER, Advocate for the petitioner and of MR.R.PRATHAP KUMAR ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

(Order of the Court was made by M.SATHYANARAYANAN.,J)

The petitioner is the sole accused in S.C.No.1 of 2016 on the file of the Fast Track Mahila Court, Thiruvallur and vide impugned judgment dated 23.08.2018, he was convicted for the commission of offences under Sections 302 and 201 IPC and imposed with a sentence of Rigorous Imprisonment for Life and to pay a fine of Rs.2,000/- in default to undergo 6 months Rigorous imprisonment. The sentence of imprisonment was ordered to run concurrently and set off was also granted under Section 428 Cr.P.C. The sole accused/appellant/petitioner, who got convicted and sentenced, vide

impugned judgment passed by the Trial Court, challenging the legality of the conviction and sentence, has filed this appeal and pending disposal of the same, filed this petition for suspension of substantive sentence of imprisonment.

2. The learned counsel appearing for the petitioner / appellant would submit that the case of the prosecution rests upon circumstantial evidence and the deceased is the wife of the petitioner / appellant and the motive projected by the prosecution is that the deceased got married to the petitioner / appellant for the second time and the first marriage was dissolved and she frequently used to talk to somebody over phone and therefore, the appellant / accused had suspected her fidelity. At about 4.30 p.m on 15.12.2013, the petitioner / appellant with an intention to do away with the life of his wife, had slapped her and push her down and she fallen down and as a result, she obtained head injuries and died. Thereafter, the petitioner/appellant poured kerosene and petrol and set ablaze and cut the body into three pieces with the use of hacksaw blade and left the leg portion in his house. The portion below the head and above the hip was thrown at Sholavaram bush and the head portion was thrown under the Koovam river bridge at Elephant gate.

3. The primordial submission made by the learned counsel appearing for the petitioner is that the prosecution has miserably failed to prove that it was the petitioner / appellant has committed the murder and would further add that since the oral and documentary evidence rendered by the prosecution cull out very many inconsistencies and infirmities and since the petitioner/appellant is having bright change of acquittal, prays for suspension of substantive sentence of imprisonment.

4. *Per contra*, learned Additional Public prosecutor appearing for the State would submit that admittedly the deceased happened to be the wife of the appellant and though head and trunk portion was found somewhere, two burnt legs were found outside the house of the appellant and therefore, it is for the petitioner / appellant to offer plausible explanation and he has miserably failed to do so and the evidence rendered by the prosecution had amply proved their case beyond any reasonable doubt and therefore, the Trial Court has rightly reached the conclusion and imposed the conviction and sentence and hence prays for dismissal of this petition.

5. This Court has carefully considered the rival submission and also perused the materials placed before it.

6. As rightly pointed out by the learned Additional Public Prosecutor, the deceased happened to be the wife of the appellant / petitioner and therefore, it is for him to explain as to how she died. It is also to be noted at this juncture that the two partially burnt legs were found inside the house of the appellant / accused. The deceased was employed as a Teacher and as she was in possession of question paper for the half yearly examination, P.W.10 Shanthi Headmistress sent P.W.s 11 & 12/ teachers who are working with the deceased to the house of the deceased and when they asked about the whereabouts of the deceased, the petitioner / appellant replied that she went to her parents house and the body was also identified by the brother of the deceased and scientific evidence in the form of Postmortem Report and DNA Report has amply proved that the various parts of the body found in various places were of the deceased.

7. In the considered opinion of this Court, the points urged by the learned counsel appearing for the petitioner / appellant revolve around adjudication of oral and documentary evidence and the same can be considered only at the time of final hearing of this appeal.

8. In the light of the reasons above, this Court is not inclined to suspend the substantial sentence of imprisonment imposed on the petitioner/appellant. Therefore, the Criminal Miscellaneous Petition is dismissed.

-sd/-
19/03/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE FAST TRACK MAHILA COURT,
TIRUVALLUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON-1 FOR CONVICT
PUZHAI, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
E-5 SHOLAVARAM POLICE STATON,
CHENNAI

C.C. to M/S.K.SHANKER Advocate on payment of necessary charges

Order

in
CRL MP.3055/2019

in
CRL.A.120/2019

Date :19/03/2019

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MK:27/03/2019



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