

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Second day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M.M.SUNDRESH

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.7599 of 2019

in CRL.A.No.340 of 2018

ARAVALLI

[PETITIONER / APPELLANT]

Vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
CHIDAMBARAM TOWN POLICE STATION,
CUDDALORE DISTRICT.
CRIME NO.239 OF 2014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.No.340 of 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Spl.S.C.No.04 of 2015 dated 24.04.2019 passed by the Sessions Judge Mahila Court, Cuddalore and enlarge the petitioner on bail pending disposal of the above CRL.A.No.340 of 2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.No.340 of 2018 on the file of the High Court and upon hearing the arguments of M/S.R.SANKARASUBBU, 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.M.SUNDRESH, J.]

The petitioner, has been arrayed as A2, in S.C. No. 4 of 2015 on the file of the Sessions Judge, Mahila Court, Cuddalore for the offence, punishable under Section 201 r/w 302 I.P.C. The trial Court, convicted the petitioner along with A1, who is none other than the husband, by the judgment dated 24.04.2019 and sentenced her to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of two years. Seeking suspension of sentence, the present petition has been filed.

2.The learned counsel appearing for the petitioner submitted that there is no evidence to show that there exists either intention or knowledge on the part of the petitioner. At best, the offence under Section 201 I.P.C. simpliciter alone would get attracted. Even at the time of occurrence, the petitioner was not present. She is also a lady under incarceration for more than two months. There are arguable points available in the appeal. Therefore, this petition will have to be allowed.

3.The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner, along with A1 who is none other than the husband, committed the offence. Though she was not available at the scene of occurrence, she along with A1 thereafter concealed the body. Thus, the petition will have to be dismissed.

4. We have perused the judgment rendered by the trial Court. *Prima facie*, we are of the view that there is no enough material to hold that the petitioner is liable to be convicted for the offence under Section 201 I.P.C. Admittedly, the case of the prosecution is that A1 took the deceased for his sexual desire. The petitioner was not stated to be in the scene of occurrence. Thus, we find that at least insofar as the petitioner is concerned, there are considerable points both on fact and law involved to be decided in the appeal.

5.Accordingly, the substantive sentence of imprisonment alone is suspended on condition the petitioner executes 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 Judicial Magistrate No.II, Chidambaram and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.00 a.m., pending appeal.

सत्यमेव जयते

-sd/-

02/07/2019

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 JUDICIAL MAGISTRATE NO.II
CHIDAMBARAM,
CUDDALORE DISTRICT

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE [FOR INFORMATION]

3 THE SESSIONS JUDGE
MAHILA COURT, CUDDALORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
CHIDAMBARAM TOWN POLICE STATION,
CUDDALORE DISTRICT

6 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
CUDDALORE

+1 C.C. to M/S.R.SANKARASUBBU Advocate on payment of necessary
charges SR.NO.13210

Order

in
CRL MP.7599/2019

in
CRL.A.340/2018

Date :02/07/2019

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cm 02/07/2019

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