

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Second day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION NO.7161 OF 2019

IN CRL.A.NO.68 OF 2019

P.VENKADESAN

[PETITIONER / APPELLANT / ACCUSED]

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE,
VEERANAM POLICE STATION,
SALEM.

[RESPONDENT]

CR.NO.8 OF 2010

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.68 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed by the judgment dated 10.01.2019 made in S.C.No.226 of 2012 enlarged him on bail in Crl.A.No.68/2019 passed by the learned Sessions Judge, Mahila Court, Salem, IN CRL.A.NO.68 OF 2019 [IN CRL.MP.NO.7161 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.68 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.PALANINATHAN P., Advocate for the petitioner and of M/S. KRITIKA KAMAL P, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioner was convicted under Section 306 I.P.C. in S.C.No.226 of 2012 on 10.01.2019 by the learned Sessions Judge, Mahila Court, Salem and he was sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/- in default to undergo 6 months simple imprisonment. Challenging the conviction and sentence, the petitioner/appellant has filed the present Criminal Appeal and pending disposal of the same, seeks suspension of sentence and bail.

2. Heard the learned counsel for the petitioner and Mr.Krithika Kamal, learned Government Advocate (Crl.Side) appearing for the respondent.

3. It is the case of the prosecution that the petitioner was working with Rajasekar (PW1), who is the husband of the deceased-Matheswari. According to the prosecution, the deceased purchased a property on 24.04.2007 and that the petitioner was not permitting her to enjoy the property, resulting in the deceased getting frustrated and committing suicide by hanging on 03.01.2010.

4. The learned counsel for the petitioner submitted that this is not a case where the presumption under Section 113-A and 113-B of the Indian Evidence Act, 1872 could be applied. He further contended that the petitioner/accused and PW1 were colleagues in BSNL and that the accused had paid some money to PW1 for the purchase of the said property and that without the knowledge of the accused, PW1 and his wife executed a Power of Attorney in favour of one Parthiban (PW13) and sold the property to Ravikumar Thathaniya (PW10) on 30.01.2009. Only on coming to know of it, the accused started demanding return of the money and that cannot mean that the accused had pushed the deceased to commit suicide on 03.01.2010.

5. *Per contra*, Ms.Krithika Kamal, learned Government Advocate (Crl.Side) submitted that the accused had no share in the property and that he was only a broker. She also submitted that the accused had filed a Suit based on a forged lease deed against the deceased, in connection with which the police has registered a case in Crime No.224 of 2009 under Sections 294(b), 506(ii) and 465 I.P.C. against the accused and he was arrested.

6. This Court gave anxious consideration to the rival submissions.

7. According to the prosecution, the deceased gave a complaint, based on which the police has registered a case in Crime No.224 of 2009 under Sections 294(b), 506(ii) and 465 I.P.C. against the accused and he was arrested. Therefore, the deceased had resorted to legal process to give vent to her frustration. Even thereafter, if the deceased were to commit suicide, it may be difficult to mulct criminal liability on the accused.

8. Considering the fact that the petitioner/appellant is undergoing incarceration from 10.01.2019 ; that there are substantial grounds raised in the memorandum of appeal and that the present appeal is not likely to be taken up for hearing in the near future, this Court is of the view that interest of justice will be served, if the petitioner is granted suspension of sentence and bail. Under such circumstances, suspension of sentence and bail are granted to the petitioner on the following conditions :

- i. The petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the Judicial Magistrate No.4, Salem.
 - ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.
 - iii. The petitioner shall appear before the Judicial Magistrate No.4, Salem, on the first working day of every month until disposal of this appeal.
 - iv. On any particular date if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 Cr.P.C. and appear before the Magistrate on any other day as determined by the Magistrate in lieu of the day on which he would absent.
4. This Miscellaneous Petitions is disposed of accordingly.

-sd/-
22/08/2019

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 SESSIONS JUDGE, सत्यमेव जयते
MAHILA COURT, SALEM.

2 THE JUDICIAL MAGISTRATE,
NO.4, SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE
VEERANAM POLICE STATION, SALEM.

+1C.C. to M/S.PALANINATHAN P. Advocate on payment of necessary charges SR NO.17532

Order

in
CRL MP.7161/2019
in
CRL.A.68/2019

Date :22/08/2019

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MK:28/08/2019



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