

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Eighth day of November Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.14537 of 2019

IN CRL.A.NO.344 of 2019

ARUSAMI

[PETITIONER]

Vs

STATE REP BY
THE DEPUTY SUPERINTENDENT OF POLICE,
THEVOOR POLICE STATION,
SALEM DISTRICT.
(*)CR.NO.95/2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To enlarge the petitioner on bail by suspending the sentence imposed in **(*)S.C.No.461/2016** on the file of Sessions Court, Mahalir Neethimandram, Salem pending disposal of C.A.No.344/2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.T.MURUGANANTHAM, Advocate for the petitioner, and of M/S.M.MOHAMED RIYAZ, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated, 27.04.2019, made in **(*)S.C.No.461 of 2016**, by the Sessions Court, Mahilar Neethimandra, Salem, pending disposal of the Criminal Appeal.

2 This court heard the learned counsel on either side and also perused the materials placed on record.

3 In and by the impugned judgement, the petitioner/accused was convicted and sentenced for the offence under Section 498(A) of IPC to undergo Three years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months Simple Imprisonment and under Section 306 of IPC to undergo Ten years Rigorous Imprisonment

and to pay a fine of Rs.2,000/-, in default to undergo six months Simple Imprisonment. The sentences are ordered to run concurrently.

4 The case of the prosecution is that the accused got married with the deceased viz., Vannila about five years prior to the occurrence that is on 04.06.2013 and that they were living at Vellapillayar Kovil Mettupalayam in a joint family along with the parents of the accused. The couple were blessed with a 2 ½ years old boy by name Poovarasan. Further averment is that there used to be frequent quarrels between them and that the petitioner used to scold the deceased insisting her not to go to her parents or any of her relatives house often and thereby, stated to have ill-treated her and unable to bear the same, the deceased had committed suicide by hanging herself.

5 The learned counsel further submitted that the petitioner is the sole accused in this case and even as per the prosecution, the averment is that the petitioner had prevented his wife from going to her father's house due to which, she committed suicide. Further, other than the close relatives, no independent witness have been examined by the prosecution to prove the offences. He would further submit that initially the case was projected by the witness, as if the petitioner committed the murder of his wife and thereafter, during the investigation, it was found that the victim had committed suicide. The Revenue Divisional Officer, who had conducted the enquiry, has also found that there was no demand of dowry and no evidence has been let in by the prosecution to prove that the petitioner abetted the victim to commit the suicide. The petitioner had examined DW1 on the side of defence to prove that there was no cruelty. He would submit that apart from the above, there are also other arguable points in this case. He would submit that the petitioner is in custody from 27.04.2019 and that the first child is with the custody of the parents of the petitioner and thereby, would seek for suspension of sentence.

6 The respondent had filed counter, wherein, it has been stated that due to the harassment meted out to the victim by the petitioner, the victim, who was pregnant with a child in the womb, had committed suicide. The prosecution had examined ten witnesses and marked Exs.PW1 to PW12 and MO1 & MO2.

7 The learned Additional Public Prosecutor has raised objections for suspending the sentence stating that the prosecution has proved its case beyond reasonable doubt and the Trial Court has rightly convicted the petitioner.

8 According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, in the opinion of this Court, the substantive sentence imposed against the petitioner/accused may be suspended.

9 Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the petitioner/ accused is ordered to be enlarged on bail, on the following conditions:-

- i. The petitioner/ accused shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties, each for a like sum to the satisfaction of the Sessions Court, Mahilar Neethimandram, Salem.

The petitioner/accused shall report before the Trial Court, on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-
08/11/2019

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.

[*]Amended as per order of this court dated 28.01.2020 made in CrI.M.P.NO.986/2020 in CrI.A.No.344/2019.

TO

1 THE DEPUTY SUPERINTENDENT OF POLICE,
THEVOOR POLICE STATION,
SALEM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SESSIONS COURT,
MAHILAR NEETHIMANDRA, SALEM,

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S.T.MURUGANANTHAM Advocate on payment of necessary charges SR.NO.1736

Order

in
CRL MP.14537/2019
in
CRL.A.NO.344/2019

Date :08/11/2019

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TA-30/01/2020