

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Eleventh day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice M. SATHYANARAYANAN

and

The Hon`ble Mr Justice M. NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION No.14202 of 2018

in CRL.A.NO.652 OF 2018

PARAMESWARI

[PETITIONER]

Vs

STATE THROUGH

[RESPONDENT]

THE INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
CUDDALORE DISTRICT.
CR. NO. 249 OF 2016.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.652/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence and fine amount and release the petitioner on bail pending disposal of this Criminal appeal before this Honble Court against the judgment in SC.No. 24 of 2017 the file of the Honble Sess.Judge Mahila Court, Cuddalore dt.13.7.2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.652/2018 on the file of the High Court and upon hearing the arguments of M/S.P.PALANIKUMAR 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 / appellant is the sole accused in S.C.No.24 of 2017 on the file of the Court of Sessions Judge (Mahila Court), Cuddalore and vide impugned judgment dated 13.07.2018, she was convicted for the commission of offence under Section 302 IPC and sentenced to undergo Rigorous Imprisonment for Life and fine of Rs.10,000/- with default sentence of Rigorous Imprisonment of two years. The Trial Court has also granted Set off under Section 428 Cr.P.C.

2. The petitioner / appellant, challenging the said conviction and sentence, has filed this appeal and pending disposal of the same, filed this petition praying for suspension of substantive sentence of imprisonment, awarded by the Trial Court.

3. The learned counsel appearing for the petitioner/appellant would submit that the case of the prosecution rests upon circumstantial evidence and the motive projected by the prosecution is that the petitioner/appellant was in love with one Mr.Arulraj and however her parents gave her marriage with one Mr.Ramar, who subsequently moved for Singapore, in connection with employment and thereafter, she continued her relationship with Arulraj. P.W.2 father of the deceased is the neighbour and he exposed the said illicit relationship and developing grudge and in order to wreck vengeance on P.W.2, on 23.08.2016 at about 05.30 p.m, the petitioner / appellant enticed the elder son of the P.W.2 viz., Nithish aged about 3 ½ year took him to her bathroom, which is located on the rear side of both houses of the appellant / accused and slit the throat of the child using a blade and caused the death of the child.

4. The primordial submission made by the learned counsel for the petitioner is that the occurrence took place on 23.08.2016. she said to have been arrested on 27.08.2016 and in between, she did not abscond and the said important fact has been completely overlooked by the Trial Court and except the testimony of minor child of P.W.3, none of the circumstances had pointed out the guilt on the part of the petitioner/appellant. The Trial Court, in an improper appreciation of oral and documentary evidences, has reached an erroneous conclusion and convicted and sentenced the petitioner / appellant and since, her chance of success is bright in the Criminal Appeal, prays for suspension of substantive sentence of imprisonment.

5. *Per contra*, Mr.R.Prathap Kumar, learned Additional Public Prosecutor appearing for the State would submit that the motive for the commission of offence has been clearly spoken to by P.W.2 and it is supported by other evidences and the fact of taking the deceased by the appellant / petitioner has been spoken to by P.W.3, the elder sister of the deceased / daughter of P.W.2 and the scientific evidence had also established the fact that the deceased had died on account of homicidal violence and considering the serious nature and gravity of the offence prays for dismissal of this petition.

6. In respect of the said submission, the learned counsel for the petitioner/appellant would submit that at the time of delivering the verdict, by the Trial Court, the petitioner/appellant was in family way and she delivered a child, now 3 months old and both, mother and child are detained at Central Prison, Vellore and taking into consideration the above facts, prays for suspension of sentence imposed by the petitioner/appellant on the ground of mercy and compassion.

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

8. The motive for the commission of offence has been spoken to by P.W.2 and other witnesses and that apart on the said fateful day, taking of the deceased child by the petitioner/appellant has been spoken to by P.W.3 / elder sister of the deceased. The testimonies of other witnesses also spoke about the arrest, recovery of the persons and admissible portion of the confession statement. P.W.8 was the handler of a sniffer dog and he would depose that the dog had sniffed the blood in the bathroom and thereafter went inside the house of the deceased and thereafter went inside the house of the accused and brought out a cloth from the house of the accused. The Scientific Evidence has also established the fact that the deceased child had died on account of homicidal violence.

9. In the considered opinion of this Court, the points urged by the learned counsel for the petitioner/appellant can be appreciated only at the time of advancing final arguments in the Criminal Appeal.

10. This Court *prima facie* is of the view that it is not a fit case for suspension of sentence. The points urged by the learned counsel 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.

11. Therefore, this Criminal Miscellaneous Petition is dismissed.

-sd/-
11/04/2019

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

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

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TO

1 THE SESSIONS JUDGE
MAHILA COURT, CUDDALORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
RAMANATHAM POLICE STATION,
CUDDALORE DISTRICT.

C.C. to M/S.P.PALANIKUMAR Advocate on payment of necessary
charges SR.NO.

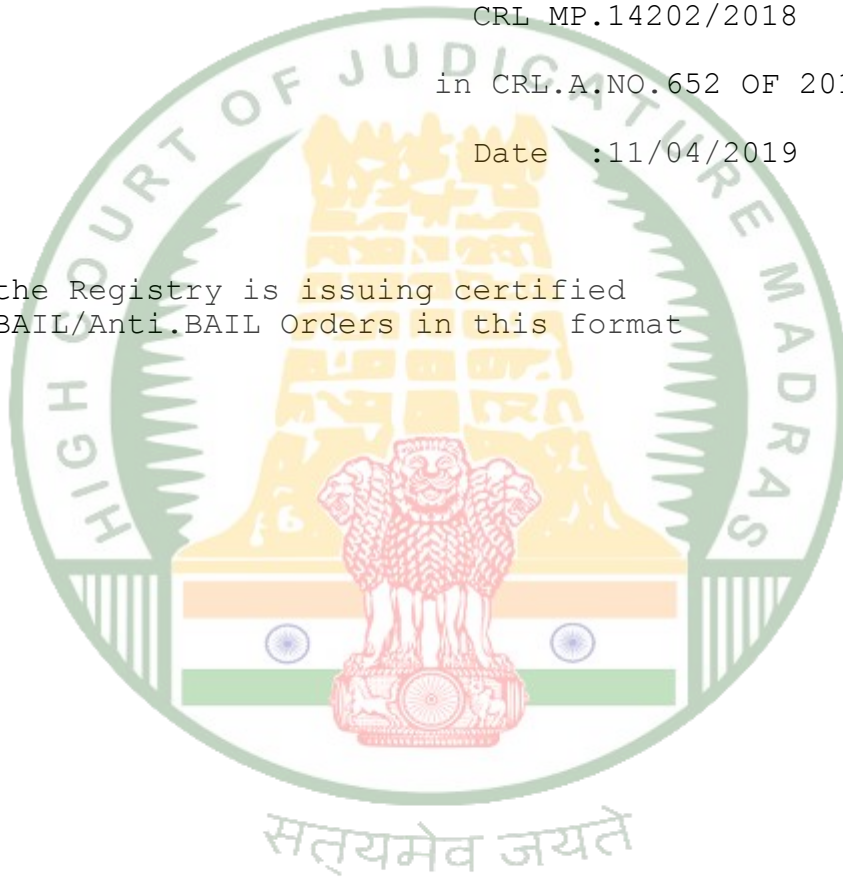
Order

in
CRL MP.14202/2018

in CRL.A.NO.652 OF 2018

Date :11/04/2019

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