



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Thirteenth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

CRL MP (MD) No.4326 of 2019
IN
CRL A (MD) No.36 of 2018

R.GANESAN,

... PETITIONER/APPELLANT/
ACCUSED (SINGLE)

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KENIKARAI POLICE STATION,
RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT
(CR.NO.156/2012)

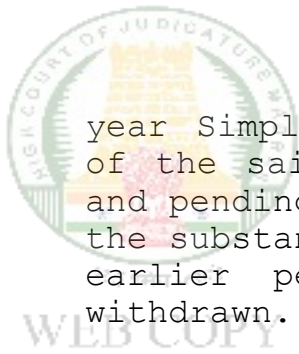
... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed by the learned Additional District and Sessions Judge, Ramanathapuram in S.C.No.77 of 2013 vide his Judgment dated 16.06.2017 pending the disposal of the main Criminal Appeal in C.A. (MD)No.36/2018 pending on the file of this Honourable Court.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.ANAND, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

The petitioner/appellant is the sole accused in S.C.No.77 of 2013 on the file of the Court of Additional District and Sessions Judge, Ramanathapuram and he was charged for the commission of the offence under Section 302 I.P.C. The trial Court under the impugned judgment dated 16.06.2017 has found him guilty for the offence under Section 302 I.P.C. and sentenced him to undergo imprisonment for life and to pay a fine of Rs.5,000/-, with a default sentence of one



year Simple Imprisonment. The petitioner, challenging the legality of the said conviction and sentence, preferred the present appeal and pending appeal, filed the present petition seeking suspension of the substantive sentence of imprisonment for the second time and the earlier petition for suspension of sentence was dismissed as withdrawn.

2.Mr.R.Anand, the learned counsel appearing for the petitioner would submit that no worthwhile evidence has been adduced by P.W.1, mother-in-law of the petitioner, and the presence of P.W.1 is also highly doubtful and by way of alternative argument the learned counsel for the petitioner would submit that admittedly it is a case that petitioner/appellant is entitled for modification of the sentence of imprisonment and hence prays for suspension of the substantive sentence of imprisonment.

3.Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that the testimony of the sole eye-witness has been corroborated by other evidences and the points urged by the learned counsel appearing for the petitioner can be appreciated only at the time of final disposal and hence, prays for dismissal of this petition.

4.This Court has carefully considered the rival submissions and also perused the materials placed before it including the impugned judgment.

5.The testimony of P.W.1 would show that the petitioner/appellant had committed the murder of his brother-in-law by throwing the grinding stone and though the prosecution projected that P.W.2 also seen the occurrence, she turned hostile and the testimony of the investigation officer, who was examined as P.W.16 would disclose P.W.2 made improvements from that of her statements recorded under Section 161(3) Cr.P.C. This Court is of the prima-facie view that P.W.1 has fully supported the case of the prosecution and points urged by the learned counsel for the petitioner can be appreciated only at the time of final disposal of the appeal.

6.Therefore, this Criminal Miscellaneous Petition is dismissed. Since the conviction is as early as on 16.06.2017, Registry is directed to post the appeal for final disposal on 04.07.2019.

sd/-
13/06/2019

/ TRUE COPY /



TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
RAMANATHAPURAM.

2. THE INSPECTOR OF POLICE,
KENIKARAI POLICE STATION,
RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.4326 of 2019
IN
CRL A (MD) No.36 of 2018
Date :13/06/2019

sj

AE/PN/SAR-III (19.06.2019) 3P 5C