



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

Monday, the Seventeenth 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.5260 of 2019
IN
CRL A(MD) No.225 of 2019

M.SUBBULAKSHMI

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
TALLAKULAM POLICE STATION,
MADURAI.
CRIME NO.491 OF 2015

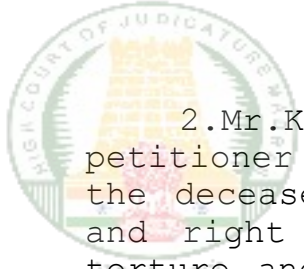
... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence in SC.No.145 of 2016 on the file of Principal District and Sessions Judge, Madurai on 11.02.2019 till the disposal of criminal appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.R.SINGARAVADIVEL, Advocate for the petitioner and of Mr.K.DINESH BABU, 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.145 of 2016 on the file of the Court of Principal District and Sessions Judge, Madurai and she was charged for the commission of the offence under Section 302 I.P.C. The trial Court under the impugned judgment dated 11.02.2019 has found her guilty for the offence under Section 302 I.P.C. and sentenced her to undergo imprisonment for life and to pay a fine of Rs.1,000/-, with a default sentence of 3 months 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.



2.Mr.K.R.Singaravadivel, learned counsel appearing for the petitioner would submit that the petitioner/appellant is the wife of the deceased and she got married the deceased about 15 years back and right from the date of marriage she has been subjected to torture and physical abuse at the hands of her husband, who was a drunkard and as usual the deceased returned to the home under the influence of alcohol on 17.04.2015, and at about 9.30 p.m. he went to bed and thereafter accidentally fallen down and sustained injuries on his head and the trial Court without properly appreciating the oral and documentary evidence and other materials in proper perspective has convicted and sentenced the petitioner/accused and pending trial she was on bail throughout and hence prays for suspension of the substantive sentence of imprisonment.

4.Per contra, Mr.K.Dinesh Babu, learned Additional Public Prosecutor appearing for the State would submit that it is a case of eye-witnesses account and P.Ws.2 and 3 were eye-witnesses to the occurrence and that apart the scientific evidence is in favour of the prosecution that the deceased had died due to homicidal violence and due to attack made by the petitioner by using Mo.1 series wooden log on his head and hence, prays for dismissal of this petition.

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

6.A perusal of the evidence of the witnesses would disclose that the deceased was always under the influence of alcohol and even according to P.Ws.2 and 3, immediately after the occurrence, when they asked the petitioner about the reason for the attack, she replied that the deceased had mortgaged the brass pot and consumed liquor and therefore, infuriated by the same, she beat the deceased. P.W.6, son-in-law of the deceased and the petitioner, would depose that immediately after the occurrence the petitioner/accused herself took the deceased to the hospital and same has been narrated by the causality medical officer, who has been examined as P.W.12 and P.W.10, the doctor, who conducted autopsy, in his evidence as well as in his postmortem report Ex.8 has stated about the presence of alcohol in the blood of the deceased. In the light of the above facts and circumstances, this Court is of the view that the petitioner/appellant is entitled for suspension of the substantive sentence of imprisonment pending this appeal.

7.In the result, the petition is ordered and the substantive sentence of imprisonment alone in respect of the petitioner/appellant is suspended and the petitioner/appellant is directed to be enlarged on bail on condition that the petitioner/appellant shall execute 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 the learned Judicial Magistrate No.2, Madurai and on further condition that the petitioner/appellant shall appear



before the Committal Court, viz., the Court of Judicial Magistrate No.2, Madurai [PRC.No.91/2015] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

WEB COPY

sd/-
17/06/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
MADURAI.
2. THE JUDICIAL MAGISTRATE NO.2, MADURAI.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL JAIL (SPECIAL PRISON FOR WOMAN),
MADURAI.
5. THE INSPECTOR OF POLICE
TALLAKULAM POLICE STATION, MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.K.R.SINGARAVADIVEL Advocate SR.No.9776

ORDER
IN
CRL MP (MD) No.5260 of 2019
IN
CRL A (MD) No.225 of 2019
Date :17/06/2019

MS/VR/SAR-4/18.06.2019/3P.8C