



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

Wednesday, the Seventeenth day of July Two Thousand Nineteen

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PRESENT

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

CRL MP(MD) No.5669 of 2019
IN
CRL A(MD) No.453 of 2018

LAKSHMI

... PETITIONER/APPELLANT

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE
ALLINAGARAM POLICE STATION,
THENI.
(CR.NO.328/2015)

... 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 of Imprisonment imposed by the learned Additional District (Fast Track) Judge, Theni in S.C.No.17 of 2016 by the Judgment dated 10.09.2018 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Crl.A.

Order :This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.KARUNANITHI for M/S.R.VINOTH, 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 THE COURT WAS MADE BY M.SATHYANARAYANAN, J.)

The petitioner is arrayed as A-2 in S.C. No.17 of 2016 on the file of the Additional Sessions Judge (Fast Track Court), Theni and she, along with one Muthu (A-1) were tried for the offences u/s 302 r/w 34 IPC and the trial court, vide the impugned judgment dated 10.9.2018, found the accused guilty and sentenced them to undergo imprisonment for life and to pay a fine of Rs.5,000/-, in default to undergo imprisonment for a period of six months. The trial court also granted set off u/s 428 Cr.P.C. Challenging the legality of the said conviction and sentence, the petitioner/A-2 has



preferred the present appeal and pending the appeal, has filed this petition seeking suspension of substantive sentence of imprisonment.

2. Mr.Karunanidhi, learned counsel appearing for the petitioner drew the attention of this Court to the order dated 11.7.19 in CrI. M.P. (MD) No.6217/2019 in CrI. A. (MD) No.454/2018 filed by A-1 and submits that by prima facie appreciating the materials placed, this Court has granted suspension of substantive sentence of imprisonment imposed on A-1 and since A-2, the wife of the deceased also stands on the same footing, prays for grant of similar order suspending the substantive sentence of imprisonment imposed on A-2.

3. Per contra, Mr.S.Chandrasekar, learned Addl. Public Prosecutor appearing for the State drew the attention of this Court to the testimony of P.W.3, the daughter of the deceased and A-2 and submits that in the light of her testimony, coupled with the scientific evidence, the prosecution has proved the case beyond reasonable doubt and, therefore, prays for dismissal of this petition.

4. This Court has carefully considered the rival submission and also perused the materials available on record.

5. The case of the prosecution rests upon circumstantial evidence. A perusal of the testimony of P.W.3, the daughter of the deceased and A-2 prima facie disclose that immediately after the occurrence, A-2 told P.W.3, her daughter, that if somebody asks whether A-1 has come, she should state that he has not come. P.W.3, in cross-examination done on behalf of A-2 also specifically denied the suggestion and, in fact, she had positively stated that there was illicit intimacy between her mother (A-2) and A-1.

6. This Court had granted suspension of substantive sentence of imprisonment for A-1 for the reason that none of the witnesses have spoken about the presence of A-1, either prior or immediately after the occurrence. However, insofar as A-2 is concerned, she was sleeping inside the house and her husband/the deceased, was sleeping outside the house, where he was done to death and her reaction/conduct subsequent to the occurrence also assumes importance. In the considered opinion of this Court, the points urged by the learned counsel for the petitioner/A-2 could be considered and appreciated only at the time of final disposal of the appeal and, therefore, for the reasons aforesaid, this petition for suspension of substantive sentence of imprisonment, is dismissed.

7. At this juncture, learned counsel appearing for the petitioner/A-2 prays for early hearing of the appeal by taking into consideration the fact that the petitioner/A-2 is under incarceration for nearly a year.



8. Registry is directed to prepare the typed set of documents and list the appeal for final disposal on 11.9.2019.

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sd/-
17/07/2019

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

TO

1. THE ADDITIONAL DISTRICT (FAST TRACK JUDGE,
THENI
2. THE INSPECTOR OF POLICE
ALLINAGARAM POLICE STATION, THENI
3. THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO : THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.5669 of 2019
IN
CRL A (MD) No.453 of 2018
Date : 17/07/2019

GLN
PK/JC/SAR-4/26.07.2019 : 3P/6C