



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

Thursday, the Twelfth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP (MD) No.6886 of 2019
IN
CRL A (MD) No.343 of 2019

THIRUNAVUKARASU ... PETITIONER/SOLE ACCUSED

Vs

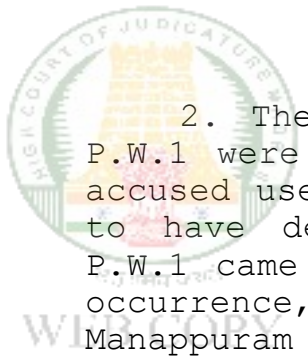
STATE REP BY
THE INSPECTOR OF POLICE
KEERAMANGALAM POLICE STATION,
PUDUKKOTTAI DISTRICT (CR.NO.175/2016)

... RESPONDENT/COMPLAINANT

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 Sessions Judge, Mahila Court, Pudukkottai in S.C.No.142/2017 by the Judgement dated 25.07.2019 and enlarge the petitioner/ Appellant on bail, pending disposal of above CRL A(MD) No.343 of 2019.

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

This appeal has been filed aggrieved by the Judgment of the Court below convicting the petitioner for an offence under Section 302 of IPC., and Sentencing him to undergo life imprisonment with a fine of Rs.2000/- and in default to undergo six months simple imprisonment.



2. The case of the prosecution is that both the accused and P.W.1 were working as Electrician. Due to that relationship, the accused used to frequently visit the house of P.W.1 and he is said to have developed an illicit intimacy with the wife of P.W.1. P.W.1 came to know about this relationship. 10 days prior to the occurrence, P.W.1 is said to have sent away his wife to work at Manappuram Gold Loan Company at Aranthangi. The accused developed suspicion that the deceased was deserting him, and therefore, he had planned to murder her. On the intervening night between 23.10.2015 and 24.10.2016, between 10.00 pm., and 6.00 a.m., the next day, the deceased is said to have been murdered by the accused by throttling her with her hands.

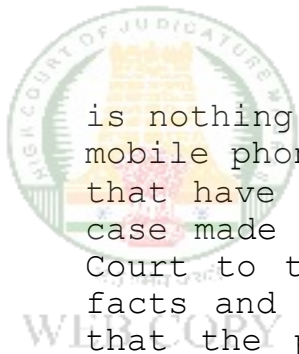
3. The learned counsel appearing for the petitioner submitted that prosecution had examined P.W.2, who is said to be the eyewitness for the occurrence. The learned counsel submitted that P.W.2 could not have been present in the place of occurrence and the only piece of evidence that has been relied upon by the prosecution to establish the presence of P.W.2 was his mobile phone - M.O.4, that was left behind in the scene of occurrence and the phone calls that were made from the said mobile phone for which the telephone call details were marked as Ex.P15 through P.W.13. The learned counsel submitted that the call details that were collected pertained to the telephone calls that were made between P.Ws.2 and 3 and it does not in any way substantiate the case of the prosecution.

4. The learned Additional Public Prosecutor appearing on behalf of the State submitted that P.W.2 has clearly spoken about the incident and of the fact that he heard cries of the deceased in the garden and when he went and saw, he found the accused throttling the neck of the deceased. The learned Additional Public Prosecutor submitted that this evidence of P.W.1 has not been discredited in the cross-examination and therefore, he submitted that the Court below was perfectly right in convicting the petitioner by placing reliance upon the evidence P.W.2 and also the other evidence namely, the call details, evidence of P.W.13 and also the nature of injuries that was sustained by the deceased which has been spoken to by P.W.9 and supported by the inquest report, which was marked as Ex.P18. Learned Additional Public Prosecutor, on instructions, submitted that there are no criminal antecedents as against this petitioner.

5. This Court has carefully considered the submissions made on either side.

6. This Court is of the considered view that P.W.2 has not spoken about his leaving behind the mobile phone in the score of crime, even in the chief examination. Therefore, the presence of the mobile phone of P.W.2 in the scene of occurrence looks very artificial and even the call details that is reflected in Ex.P15, service records got in the

<https://hccservices.scribd.com/document/444444444>



is nothing to show that any call was made to the deceased from the mobile phone of P.W.2. We have also gone through the other materials that have placed before us and we find that there is a *prima facie* case made out by the petitioner. It will take some time for this Court to take up the appeal for final hearing. Therefore, in the facts and circumstances of the case, we are of the considered view that the petitioner is entitled for the relief of suspension of sentence, pending disposal of the appeal.

7. In the result, this Criminal Miscellaneous Partition is allowed and the substantial sentence passed by the Court below by Judgment, dated 25.07.2019 in S.C.No.142 of 2017, is hereby suspended, pending disposal of the appeal subject to the following conditions:-

(a) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties for a like sum, to the satisfaction of the learned Judicial Magistrate, Alangudi, Pudukkottai District.

(b) the petitioner shall stay at Villupuram District and shall report before the Villupuram Town Police Station daily at 10.30 a.m., and 5.30 p.m., until further orders.

(c) If the petitioner wants to leave the jurisdiction of Villupuram, he shall only approach this Court seeking for modification and in any event, he shall not leave Tamil Nadu without the prior permission of this Court.

sd/-
12/09/2019

/ TRUE COPY /

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

TO

1 THE INSPECTOR OF POLICE
KEERAMANGALAM POLICE STATION, PUDUKKOTTAI
DISTRICT.

2 THE JUDICIAL MAGISTRATE,
ALAGUDI, PUDUKKOTTAI

<https://hcservices.ecourts.gov.in/hcservices/>



3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, PUDUKKOTTAI.

4 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY.

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

6 THE SESSIONS JUDGE, MAHILA COURT, PUDUKKOTTAI.

7 THE INSPECTOR OF POLICE,
VILLUPURAM TOWN POLICE STATION,
VILLUPURAM.

+1. C.C. to M/S.D.RAMESHKUMAR Advocate SR.No.15244

ORDER
IN
CRL MP(MD) No.6886 of 2019
IN
CRL A(MD) No.343 of 2019
Date :12/09/2019

TR/PN/SAR-IV (13.09.2019) 4P 9C