



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

Friday, the Sixteenth day of August Two Thousand Nineteen

PRESENT

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

CRL MP(MD) No.968 of 2018
IN
CRL A(MD) No.66 of 2018

SUBBULAKSHMI

... PETITIONER/ APPELLANT/
SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
CHINA KOVILAN KULAM POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.104 OF 2015)

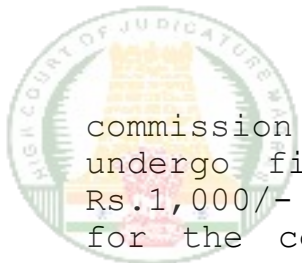
... RESPONDENT/ RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and conviction dated 16.11.2017 made in S.C.No.730 of 2016 on the file of the 4th Additional Sessions Judge, Tirunelveli pending disposal of the Criminal Appeal and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.KATHIRVELU, Senior Counsel for Mr.K.PRABHU, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Government Pleader 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.730 of 2016 on the file of the Court of IV Additional Sessions Judge, Tirunelveli and she was tried for the commission of offences under Sections 302, 201 and 203 I.P.C. The trial Court under the impugned judgment dated 16.11.2017, has found her guilty for the commission of offences under Sections 302 and 201 I.P.C. and sentenced her to undergo imprisonment for life and to pay a fine of Rs.1,000/- with default sentence of one year rigorous imprisonment for the



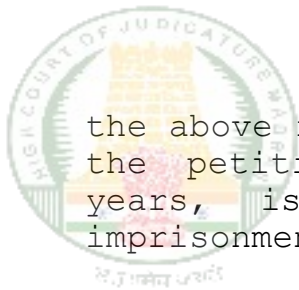
commission of offence under Section 302 I.P.C. and also sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/- with a default sentence of one year rigorous imprisonment for the commission of offence under Section 201 I.P.C. and the sentences were ordered to run concurrently and set off was also granted to the accused under Section 428 Cr.P.C. 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.V.Kathirvelu, learned Senior Counsel, assisted by Mr.K.Prabhu, learned counsel appearing for the petitioner would submit that admittedly, the case of the prosecution rests upon circumstantial evidence and as regards the motive, it was the case of the prosecution that the accused wanted to marry for the third time and therefore, required consent from the petitioner, for which, she demanded some property in her favour and it was refused, infuriated by the same, she attacked the deceased with M.O.5 "Aruvalmanai" on his neck and other parts of the body and set fire to the body to show that it was a death on account of accidental fire and the trial Court has drawn the presumption under Section 106 of Indian Evidence Act and admittedly, there is no other material to connect the petitioner with the commission of offence and after conviction, she was incarcerated for about two years and since the petitioner is having a bright chance of success in this appeal, prays for suspension of the substantive sentences of imprisonment.

3.Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that admittedly the petitioner/appellant is the defacto complainant and she only lodged the complaint under Ex.P.1 and admittedly, she alone resided with her husband in the house and it is for her to explain the injuries sustained by the deceased with M.O.5 and the trial Court has rightly drawn the presumption under Section 106 of the Indian Evidence Act 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.A perusal and consideration of the materials produced viz., the testimonies of the witnesses would prima-facie disclose that the motive for commission of offence has not been established by the prosecution and that apart, the petitioner was admitted in the hospital as inpatient for two months and the trial Court has prima-facie recorded the conviction based on the presumption under Section 106 of the Indian Evidence Act. Therefore, this Court, considering



the above facts and circumstances of the case and also the fact that the petitioner/appellant is under incarceration for nearly two years, is inclined to suspend the substantive sentence of imprisonment of the petitioner/ appellant pending this appeal.

6. 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, Sankarankovil and on further condition that the petitioner/appellant shall appear before the Committal Court, viz., the Court of Judicial Magistrate, Sankarankovil [PRC.No.8/2016] on the first working day of every English Calendar Month at 10.30 a.m. until further orders.

sd/-
16/08/2019

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

TO

1. THE 4th ADDITIONAL SESSIONS JUDGE, TIRUNELVELI.
2. THE JUDICIAL MAGISTRATE, SANKARANKOVIL.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
5. THE INSPECTOR OF POLICE,
CHINA KOVILAN KULAM POLICE STATION,
TIRUNELVELI DISTRICT.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.K.PRABHU Advocate SR.No.13587

ORDER IN
CRL MP(MD) No.968 of 2018
IN CRL A(MD) No.66 of 2018
Date :16/08/2019

MS/VR/SAR-1/20.08.2019/3P.8C

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