

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.07.2020

PRONOUNCED ON : 28.07.2020

CORAM

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.M.P.No.4185 of 2020

in Crl.A.No.252 of 2020

Murugesan ...Petitioner/Accused

Vs.

State represented by ...Respondent/Complainant
The Inspector of police,
Tiruchengodu Police Station,
Namakkal District.
(Crime No.257 of 2008)

Criminal Miscellaneous Petition filed under Section 397(1) Cr.P.C. to suspend the sentence imposed on the petitioner by judgment and order dated 19.03.2020 passed in S.C.No.102 of 2012 on the file of the Sessions Court (Fast Track Mahila Court), Namakkal and to enlarge the petitioner on bail till the disposal of the appeal.

For Petitioner : Mr.V.Parthiban

For Respondent : Mr.K.Madhan
Govt. Advocate (Crl. Side)

ORDER

This case is taken up through video conferencing.

2. This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 19.03.2020 passed in S.C.No.102 of 2012 on the file of the Sessions Court (Fast Track Mahila Court), Namakkal and to enlarge the petitioner on bail till the disposal of the appeal.

3. The petitioner got married to the deceased on 09.07.2005 and the latter committed suicide by hanging on 21.03.2008 in her matrimonial house. In this regard, the petitioner faced prosecution in S.C.No.102 of 2012 before the Sessions Court (Fast Track Mahila Court), Namakkal, for the offences under Section 498-A and 306 IPC, in which, by judgment and order dated 19.03.2020, he was acquitted

of the offence under Section 498-A IPC, but, convicted of the offence under Section 306 IPC and sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to under six months simple imprisonment, aggrieved by which, the petitioner has preferred the present appeal and suspension of sentence and bail.

4. Heard Mr.V.Parthiban, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl.Side) for the respondent/State.

5. In this case, the Revenue Divisional Officer (PW10), has submitted two inquest reports viz., Exs.P6 & P7 dated 21.03.2008 and 28.03.2008, respectively.

6. In the inquest report (Ex-P6) dated 21.03.2008, the parents of the deceased viz., Velumani (PW1) and Rukmani (PW2), have stated that their daughter had not died due to any cruelty, but on account of acute stomach ache. Therefore, the Revenue Divisional Officer (PW10), in her inquest report (Ex-P6), has opined that the death was not due to cruelty. However, Velumani (PW1) and Rukmani (PW2) had gone to the office of the Revenue Divisional Officer (PW10) on 28.03.2008 and had given an other statement alleging cruelty. Therefore, the Revenue Divisional Officer (PW10), in her inquest report (Ex-P7) dated 28.03.2008, has opined that the death was on account of cruelty.

7. Though the inquest report is not a substantive piece of evidence, but the contrary statements given by Velumani (PW1) and Rukmani (PW2) *prima facie* shows infirmity in their evidence. That apart, the appeal is not likely to be taken up in the near future. Moreover the petitioner has been in incarceration. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.

8. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Judicial Magistrate Court, Tiruchengode;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Judicial Magistrate, Tiruchengode, may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and

- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

-sd/-

28/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
(FAST TRACK MAHILA COURT), NAMAKKAL.

2 THE JUDICIAL MAGISTRATE,
TIRUCHENGODE.

3 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL. [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
TIRUCHENGODU POLICE STATION,
NAMAKKAL DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, COIMBATORE.

C.C. to M/S.V.PARTHIBAN Advocate on payment of necessary charges

Order

in
CRL MP.4185/2020
in CRL.A.No.252/2020
Date :28/07/2020

From 7.2.2001 the Registry is issuing certified copies of the BAIL/Anti.BAIL Orders in this format