

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2020

Coram

The Hon'ble Mr. Justice M.M.SUNDRESH

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No.6046 of 2020

in CrI.A No. 170 of 2019

Perumal

... Petitioner

vs

The State Rep. by
The Inspector of Police,
Katpadi Police Station,
Vellore District.

... Respondent

Petition filed under Section 389(1) of Cr.P.C to suspend the sentence imposed in S.C.No.147 of 2013 dated 08.02.2019 on the file of the Fast Track Mahila Court (Sessions Court), Vellore, Vellore District, pending disposal of C.A.No. 170 of 2019

For Petitioner .. Mr.T.Muruganantham

For Respondent .. Mr.K.Prabhakar,
Addl. Public Prosecutor

ORDER

[Order of the Court was made by *M.M.SUNDRESH, J.*]

The petitioner is the sole accused in S.C.No. 147 of 2013 on the file of Fast Track Mahila Court (Sessions Court, Vellore, Vellore District). The trial Court by judgment dated 08.02.2019 convicted the petitioner for the offence punishable under Section 302 IPC and Section 4(1) Tamil Nadu Woman Harassment Prohibition Act. For the offence punishable under Section 302 IPC, the trial Court sentenced him to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo one month simple imprisonment and for the offence punishable under Section 4 of TNPWH Act, sentenced him to undergo one year rigorous imprisonment and to pay a fine of

Rs.10,000/-, in default, to undergo six months rigorous imprisonment. Seeking suspension of sentence imposed, the present petition has been filed.

2. The case of the prosecution is that the deceased and the petitioner were having illicit relationship since she is a married woman. There was a wordy quarrel pursuant to which the petitioner committed the offence.

3. Learned counsel appearing for the petitioner submitted that the trial Court has not considered the material evidence in the right perspective. It is a case of suicide committed by the deceased. The petitioner has been under incarceration from 08.02.2019. The deceased committed the suicide pursuant to a wordy quarrel. Therefore, the sentence will have to be suspended.

4. Learned Additional Public Prosecutor appearing for the State submitted that the deceased gave a dying declaration before the learned Magistrate which was relied upon by the trial court. In such view of the matter, the present petition will have to be dismissed.

5. The petitioner has been under incarceration from 08.02.2019 onwards. More than one year and ten months have elapsed. The fact that there was a wordy quarrel has been admitted. In fact, it is the very case of the prosecution. Thus the only question for consideration is as to whether the deceased committed suicide or died due to homicide committed by the petitioner. This involves the appreciation of dying declaration of the deceased. Thus, considering the above, and particularly the period of incarceration, we are inclined to suspend the sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that each of the petitioner executes 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 Judicial Magistrate, Katpadi and on further condition that the petitioner shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-
07/12/2020

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 FAST TRACK MAHILA COURT
(SESSIONS COURT), VELLORE, VELLORE DISTRICT.

2 THE JUDICIAL MAGISTRATE,
KATPADI.

3 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE
KATPADI POLICE STATION,
VELLORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 C.C. to M/S. T.MURUGANANTHAM Advocate on payment of
necessary charges SR.NO.7965

Order

in
CRL MP.6046/2020
in
CRL A.170/2019

Date :07/12/2020

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TA-09/12/2020