

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No. 8461 of 2020

in CrI.A No. 700 of 2019

Murugesan

... Petitioner

vs

State rep. By
The Inspector of Police,
Pollachi Town East Police Station,
Coimbatore District.
(Cr.No.58 of 2015)

... Respondent

Petition filed under Section 389(1) of Cr PC to suspend the sentence imposed in S.C.No.130 of 2015 dated 09.08.2015 on the file of the Sessions Court (Mahalir Neethimantram), Mahila Court, Coimbatore pending disposal of C.A.No.700 of 2019 on the file of this Court.

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. 130 of 2015 on the file of Sessions Court (Mahalir Neethimandram), Mahila Court, Coimbatore. He was accordingly convicted for the offence punishable under Section 302 IPC by judgment dated 09.08.2017 and sentenced to undergo life imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo three months rigorous imprisonment. Seeking suspension of sentence, the present petition has been filed.

2.The petitioner is the husband of the deceased. The case of the prosecution is that the petitioner pursuant to the quarrel emanated due to the suspicion created by the talking to the deceased over phone with the third parties attacked her and caused death. The petitioner is stated to have dashed the head of the deceased on the cart and thereafter strangled.

3.Learned counsel appearing for the petitioner submitted that the for more than three years, the petitioner has been under incarceration. It is a case of the deceased falling down. The Doctor's evidence is not so clear to implicate the petitioner. It is also a case of circumstantial evidence. Thus, considering the above, the sentence will have to be suspended.

4.Learned Additional Public Prosecutor appearing for the State submitted that P.W.s 1 and 2 have given the evidence with respect to the motive. P.W.3 and other witness speak about the quarrel between the petitioner and the deceased. This coupled with the evidence of the Doctor made the trial Court to render conviction. Thus, this petition will have to be dismissed.

5.Admittedly, the petitioner has been under incarceration for more than three years. There are two issues which arise for consideration. One is whether there is a homicide or not and if so, such a homicide is culpable or not. The further issue is as to whether in such a case of culpable homicide the same would amount to murder or not. Thus, considering the above, and taking into consideration the period of incarceration, we are inclined to suspend the sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended on condition that 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 No.1, Pollachi and on further condition that he shall report before the concerned Court on the first working day of every month at 10.30 a.m. pending appeal. सत्यमेव जयते

-sd/-

18/12/2020

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 SESSIONS COURT (MAHILIAR NEETHIMANTRAM),
MAHILA COURT, COIMBATORE.

2 THE JUDICIAL MAGISTRATE,
NO.1, POLLACHI.

3 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
POLLACHI TOWN EAST POLICE STATION,
COIMBATORE DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 C.C. to M/S. T.MURUGANANTHAM Advocate on payment of
necessary charges SR.NO.8465

OrderS

in
CRL MP.8461/2020
in
CRL A.700/2019

Date :18/12/2020

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सत्यमेव जयते

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