

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

Coram

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

and

The Hon'ble Mr. Justice D.KRISHNAKUMAR

CRL MP No.11766 of 2019

in CrI.A No.539 of 2019

Saravanarajkumar ... Petitioner

vs

State rep. by
The Deputy Superintendent of Police,
Kangeyam Sub Division,
Kangeyam Police Station, Tiruppur District. ... Respondent

Petition filed under Sections 389 and 439 of Cr PC to suspend the sentence imposed in S.C.No.120 of 2014 dated 19.07.2019 on the file of the Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Tiruppur pending disposal of the Criminal Appeal.

For Petitioner .. Mr.R.John Sathyan

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

ORDER

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

The petitioner has been arrayed as A1 in S.C.No.120 of 2014 on the file of the I Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Tiruppur, for causing death of the deceased, who is none other than his wife along with three other accused, who incidentally are the members of the family. By judgment dated 19.07.2019, the petitioner was convicted for the offence punishable under Section 304(B) IPC and sentenced to undergo life imprisonment. The trial Court, while convicting the petitioner for life, acquitted the co-accused. Seeking suspension of sentence, the present petition has been filed.

2. Learned counsel appearing for the petitioner submitted that even as per the evidence of P.W.1, who is the father of the deceased,

the petitioner took the deceased for treatment for fertility. He also made her to learn the musical instrument. The evidence of P.W.5, the Doctor, who gave the post-mortem certificate under Ex.P2 can at best be an opinion and the same has to be seen in the context of her deposition. The other witnesses have not spoken about the alleged burn injuries caused by the petitioner over the body of the deceased. The petitioner has been under incarceration from 19.07.2019 onwards. Learned counsel further submitted that the petitioner is a non-smoker and there is no evidence to hold to the contrary. Thus the suspension will have to be granted to the petitioner.

3. Learned Additional Public Prosecutor appearing for the State submitted that P.Ws 2 and 3 have spoken about the injuries caused. This coupled with the evidence of P.W.5 made the trial Court to render conviction and therefore, the petition will have to be dismissed.

4. P.W.1 has deposed that the jewels and the other gifts given at the time of marriage are with him. He also acknowledged the fact that the petitioner gave treatment to the deceased. The injuries suffered were old injuries. P.W.5 Doctor, who examined the deceased and being the author of Ex.P2 has stated that the external injuries could have been caused by the cigarette burning. The deceased admittedly died in the place of P.W.1. The petitioner has been under incarceration from 19.07.2019 onwards. Thus, considering the above, we are inclined to suspend the sentence.

5. 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, Kangeyam and on further condition that he shall report before the concerned Court once in a month i.e. on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

22/12/2020

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

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TRUE COPY

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

TO

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THIRUPUR

2 THE JUDICIAL MAGISTRATE,
KANGEYAM

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR DISTRICT. [FOR INFORMATION]

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

5 THE DEPUTY SUPERINTENDENT
OF POLICE, KANGEYAM SUB DIVISION,
CR.NO.231/2013, KANGEYAM POLICE STATION,
TIRUPPUR DISTRICT.

+1 C.C. to M/S.R.JOHN SATHYAN Advocate on payment of necessary
charges SR.NO.8580

Order
in
CRL MP.11766/2019
in
CRL A.539/2019
Date :22/12/2020

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GKS:22/12/2020

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