



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Twenty Fifth day of August Two Thousand Twenty

PRESENT

The Hon'ble Mr Justice K.KALYANASUNDARAM
and
The Hon'ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3859 of 2020
IN
CRL A(MD) No.81 of 2020

KARTHIGASAMY

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
KENNIKARAI POLICE STATION,
RAMANATHAPURAM.
(CRIME NO. 10/2018)

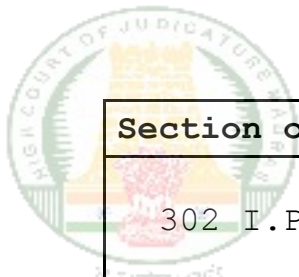
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of Imprisonment imposed by Learned Fast Track Mahila Court, Ramanathapuram in S.C. No. 124 of 2018 and enlarge the petitioner/appellant on bail, pending disposal of the above said 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 M/S. R.SENTHIL KUMAR, Advocate for the petitioner and of MR.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The petitioner is the sole accused in Sessions Case No.124 of 2018, on the file of the Fast Track Mahila Court, Ramanathapuram. He was charged for the offence under Sections 302, 324, 309 and 506(ii) I.P.C. The learned Sessions Judge, vide Judgment dated 09.12.2019, while acquitting the petitioner from the charge under Section 506(ii) I.P.C., convicted and sentenced for the other charges as follows:



Section of Law	Sentence of imprisonment
302 I.P.C.	To undergo life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for three (3) months.
324 I.P.C.	To undergo rigorous imprisonment for three (3) years.
309 I.P.C.	To undergo rigorous imprisonment for one (1) year.

2. Aggrieved over the conviction and sentence, the petitioner has preferred the present criminal appeal. Pending appeal, the petitioner has filed this criminal miscellaneous petition seeking to suspend substantive sentence of imprisonment imposed on him by the Mahila Court in the above sessions case.

3. The case of the prosecution is that on 20.01.2018, at 05.00 a.m. the petitioner attacked his wife Meenakshi @ Chinnaponnu suspecting her illicit intimacy with one Nagasundaram (P.W.4), who is none other than his employer. Thereafter, at 06.30 a.m., the petitioner also attacked his employer Nagasundaram and thereafter, he attempted to commit suicide, thereby, he also sustained injuries.

4. Mr.R.Senthil Kumar, learned counsel for the petitioner, submitted that as per the prosecution, the F.I.R. was registered at 10.00 a.m. on 20.01.2018, but, even before registering the case, the body was sent for postmortem at 07.30 a.m. In support of his contention, the learned counsel drew the attention of this Court to the inquest report (Ex.P10) prepared by the Investigating Officer (P.W.20) and his evidence. It is further contended that the blood group of the deceased is 'B', but the billhook contains the blood group 'AB'. It is further contended that admittedly, there is no eye-witness to the occurrence. The Police suspecting the involvement of P.W.4 had detained him at the Police Station on the date of occurrence, which is also admitted by him and it is further submitted that the petitioner could not have caused five grievous injuries by using two different weapons. It is the further submission of the learned counsel for the petitioner that the deceased was murdered by P.W.4 and the petitioner has been falsely implicated in this case.

5. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would submit that the prosecution has proved the motive and involvement of the accused in the occurrence and according to the learned Additional Public Prosecutor, the prosecution has proved the case beyond reasonable doubts and hence, there can be no indulgence for the accused at this juncture.

6. Heard both sides and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcservices/>



7. In the case on hand, it is not disputed that the deceased is the wife of the petitioner. It is also not equally disputed that the petitioner had sustained five grievous injuries and taken treatment at the Government Rajaji Hospital, Madurai for seventeen days as in-patient. As per the prosecution, the injuries sustained by the petitioner are self-inflicted by using weapons. We find force in the submissions of the learned counsel for the petitioner that the petitioner could not have caused himself five grievous injuries by using two different weapons. Furthermore, the Investigating Officer (P.W.20) admitted that even before the case was registered at 10.00 a.m. on 20.11.2017, the Police were present in the scene of occurrence and the body was sent for postmortem at 07.30 a.m. The Serology Report annexed at Page No.74 would show that the billhook contains the blood group 'AB' and insofar as the knife, the result of blood grouping is inconclusive.

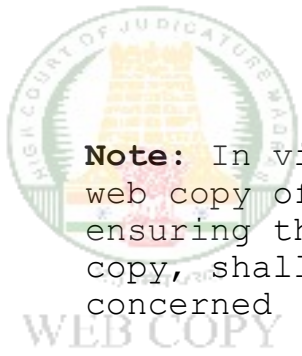
8. Considering the above facts and circumstances of the case, we are inclined to suspend the substantive sentence of imprisonment imposed on the petitioner. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

- i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Ramanathapuram.
- ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.
- iii. The petitioner shall appear before the learned Judicial Magistrate No.II, Ramanathapuram, at 10.30 a.m. on the first working day of every English Calendar month until further orders.
- iv. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 Cr.P.C. and appear before the Committal Court on any other day, as determined by the Committal Court, in lieu of the day on which they would absent.

sd/-
25/08/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned

TO

1. THE JUDGE,
FAST TRACK MAHILA COURT,
RAMANATHAPURAM.
2. THE JUDICIAL MAGISTRATE NO.II,
RAMANATHAPURAM.
3. -DO- THROUGH: THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
4. THE SUPERINTENDENT
CENTRAL PRISON,
MADURAI.
5. THE INSPECTOR OF POLICE,
KENNIKARAI POLICE STATION,
RAMANATHAPURAM,
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.R.SENTHIL KUMAR,Advocate (SR-6115[I] dated 26/08/2020)

ORDER

IN

CRL MP(MD) No.3859 of 2020 IN

CRL A(MD) No.81 of 2020

Date :25/08/2020

KRK

SRS/ VR/ SAR-III/ 28.08.2020/ 4P/8C