



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Seventeenth 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.3809 of 2020
IN
CRL A(MD) No.242 of 2020

MUTHUKAMATCHI

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
NAGAMALAI PUDUKKOTTAI POLICE STATION,
MADURAI DISTRICT.
CRIME NO.628 OF 2015

... 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 sentences passed in Special S.C.NO.134 of 2016 dated 27/02/2018 on the file of the Learned III Additional District and Sessions Judge (PCR Cases), Madurai.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.S.POORNACHANDRAN, Advocate for the petitioner and of MR.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

This criminal miscellaneous petition has been filed by the petitioner/appellant seeking to suspend substantive sentence of imprisonment imposed on him by the learned III Additional District and Sessions Judge, (PCR Cases) Madurai, by Judgment dated 27.02.2018 in S.C.No.134 of 2016.

2. The sole accused in S.C.No.134 of 2016 was tried for the offence under Sections 341, 294(b), 302 and 506(ii) I.P.C and Section 3(2)(v) of SC/ST Act and convicted by the learned III Additional District and Sessions Judge, (PCR Cases) Madurai for the



charges under Sections 341, 294(b), 302 and 506(ii) I.P.C. Aggrieved over the conviction and sentence, the present appeal has been filed. Pending appeal, this application to suspend the sentence of imprisonment has been filed.

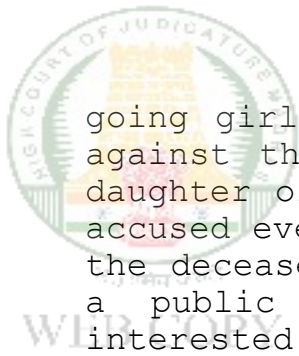
3. The case of the prosecution is that the deceased Saravanakumarpandian and the accused were neighbours and they belong to different caste. It is the further case of the prosecution that the deceased was continuously engaged in eve-teasing on the school going girls, which was objected by the accused. While so, the deceased made unnecessary comments on the daughter of the accused, when she was going to school. In pursuance thereof, on 18.12.2015, the deceased went to the house of the accused and quarrelled with his wife and on the same day, at 08.00 p.m, when the deceased was proceeding to his house, the accused waylaid him and attacked with M.O.1 Aruval and caused death of the deceased.

4. In order to prove the case of the prosecution, P.W.1 to P.W.23 were examined and Ex.P.1 to Ex.19 were marked and M.Os.1 to 11 were also marked. Accepting the case of the prosecution, the trial Court convicted the accused as stated supra.

5. Mr.S.Poornachandran, learned counsel appearing for the petitioner would urge that this is the case of sole accused and the eyewitnesses P.W.2 to P.W.9 are close relatives of P.W.1. It is also submitted that as per the prosecution, the accused was secured by the police on 19.12.2015 and on the basis of his confession, M.O.1 and M.O.3 were recovered, but the trial Court taking note of the contradiction between the evidence of P.W.20 and P.W.21, disbelieved the arrest and recovery. According to the learned counsel, the deceased was having criminal cases including cases of murder and dacoity. P.W.1 to P.W.9 have denied that the accused was having criminal case, but the Investigation Officer admitted his involvement in criminal cases. In the light of the contradiction in the evidence of eyewitnesses and other witnesses, the accused is having arguable points in the appeal and prays for suspension of sentence.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor would submit that the eyewitnesses P.W.4 to P.W.9 are the neighbours of the deceased and they have categorically deposed the involvement of the accused in the criminal case and motive for the occurrence. It is the further submission of the learned Additional Public Prosecutor that the prosecution has proved the case beyond reasonable doubt and hence, the trial Court rightly convicted the accused and therefore, he is not entitled for any indulgence of this Court at this juncture.

7. In the case on hand, it is to be noted that the prosecution case is that the deceased was involved in eve-teasing on the school



going girls and the accused objected his unnecessary comments made against the school going girls. It is also stated that when the daughter of the accused, namely, Divya was going to the school, the accused eve-teased her which lead to quarrel between the accused and the deceased. Though the occurrence is said to have taken place in a public place on 18.12.2015, the prosecution examined only interested witnesses of the deceased and P.W.1. The trial Court noticed vital contradictions between the evidence of Sub-Inspector of Police, who was examined P.W.20 and Investigation Officer P.W.21, insofar as arrest of accused and recovery of M.O.1 Aruval. It is also found from the records that the deceased was having criminal cases to his credit, but it was denied by the eyewitnesses.

8.Considering the above aspects, we are of the opinion that the accused is entitled for suspension of sentence during pendency of the appeal. 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, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the Judicial Magistrate No.VI, Madurai.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.

iii. The petitioner shall appear before the learned Judicial Magistrate No.VI, Madurai, 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 petitioners are not able to appear, leave is granted to the petitioners to file an application under Section 317 Cr.P.C. and appear before the Trial Court on any other day, as determined by the Trial Court, in lieu of the day on which they would absent.

sd/-
17/08/2020

/ TRUE COPY /

/ /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 /

<https://hccservices.mca.gov.in/hccservices/>



TO

- 1 THE III ADDITIONAL DISTRICT
AND SESSIONS JUDGE (PCR CASES),
MADURAI.
- 2 THE JUDICIAL MAGISTRATE NO.VI,
MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 4 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
NAGAMALAI PUDUKKOTTAI POLICE STATION,
MADURAI DISTRICT.
- 5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.3809 of 2020
IN
CRL A (MD) No.242 of 2020
Date :17/08/2020

SKN
JM/PN/SAR 3/25.08.2020/4P/7C