



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

Thursday, the Third day of September Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.4028 of 2020
IN
CRL A(MD) No.586 of 2019

VELMURUGAN

(NOW CONFINED AT CENTRAL PRISON,
MADURAI)

... PETITIONER/APPELLANT/ACCUSED NO.2

Vs

THE STATE THROUGH,
THE ASSISTANT COMMISSIONER OF POLICE,
THILAGAR THIDAL (L & O) CIRCLE,
MADURAI TOWN,
(CRIME NO.1222/2013)
KARIMEDU P.S.

... RESPONDENT/RESPONDENT/COMPLAINANT

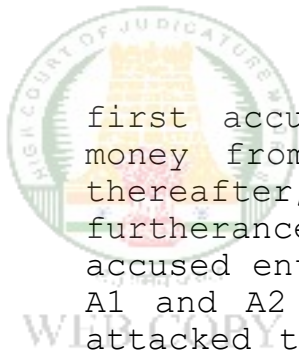
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Learned III Additional District and Sessions Judge (PCR), Madurai in SSC No. 14 of 2017 dated 13.07.2018 and enlarge the petitioner on bail pending disposal of the above said Criminal Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.P.KARTHICK, Advocate for the petitioner and of MR.R.ANANDHARAJ, Additional Government Pleader on behalf of the Respondent, the court made the following order:-

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

The petitioner along with A1 was charged for the offences under Sections 120(B), 364, 392, 302, 201, 109 r/w. 34 of I.P.C., and both of them were found guilty by the III Additional District and Sessions Court (PCR Court), Madurai in S.C.C.No.14 of 2017. Aggrieved over the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

2. The case of the prosecution is that the deceased Uma Rani is the wife of the de-facto complainant. The deceased lend money to the
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first accused for interest. When the deceased demanded back the money from A1, he developed animosity against the deceased and thereafter, he conspired with A2 and decided to eliminate her. In furtherance of the conspiracy, on 09.09.2013 at 4.30 p.m., the first accused enticed the deceased and abducted her to J.V.Polymers, where A1 and A2 were working and at about 5.00 p.m., the first accused attacked the deceased with iron pipe and after she fell down, the second accused caught hold the legs of the deceased to enable the first accused to strangulate her neck with rope. After committing the murder, the accused robbed her jewels and thereafter, wrapped the body of the deceased in a plastic gunny bag and concealed the same in the same place.

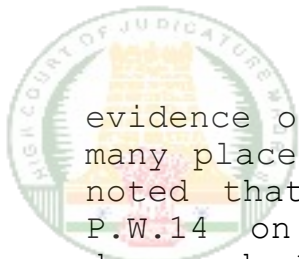
3. In order to prove the case of the prosecution, as many as P.Ws.1 to 29 were examined, apart from marking exhibits and materials. The trial Court accepting the evidence of the prosecution, convicted both the accused as stated supra.

4. Mr.P.Karthick, learned counsel appearing for the petitioner would submit that though the occurrence is said to have taken place on 09.09.2013, the complaint came to be lodged only on 02.10.2013 i.e., after lapse of 23 days. It is further contended that the first accused joined in the Company only on 02.09.2013. Hence, there is no possibility for both the accused to develop illicit intimacy and further there is no evidence to establish the same. It is also contended that if the body has been buried in the office premises of the accused, there would have been foul smell and hence, the entire prosecution has to be disbelieved. According to the learned counsel, P.W.14 is a stranger to the petitioner and hence, the extra judicial confession said to have given by the accused is to be disbelieved. The learned counsel for the petitioner relies upon the judgments of this Court in support of his submissions.

5. It is next contended that even though the name of the first accused has been mentioned in the F.I.R, till 10.06.2014, on which date, the second accused said to have given confession, no investigation was done against the first accused. There is no recovery from the petitioner.

6. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor would urge that this is a case of murder for gain and the body of the deceased was recovered only on the basis of extra judicial confession given by the petitioner herein. It is further submitted that the first accused was absconding and only after the surrender of the second accused, she could be secured and on the basis of the confession given by the first accused, the prosecution has also recovered jewels belonging to the deceased and hence, prays for dismissal of this petition.

7. In this case, it is true that the occurrence had taken place on 09.09.2013 and the complaint was lodged only on 02.10.2013. The



evidence of P.W.1 would reveal that he searched the deceased in so many places and only thereafter he lodged a complaint. It is to be noted that the second accused gave extra judicial confession to P.W.14 on 10.06.2014, which lead to recover the body of the deceased. Likewise, after arrest of the first accused, based on the confession of the first accused, jewels belonging to the deceased were recovered and they were identified by P.W.1. The decision cited by the learned counsel could be considered at the time of final hearing of the appeal.

8. Considering the charges levelled against the accused and recoveries made by the prosecution, we are not inclined to suspend the sentence and hence, this petition is dismissed.

sd/-

03/09/2020

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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 III ADDITIONAL DISTRICT AND SESSIONS JUDGE (PCR),
MADURAI
- 2.THE ASSISTANT COMMISSIONER OF POLICE,
THILAGAR THIDAL (L & O) CIRCLE,
MADURAI TOWN, (KARIMEDU POLICE STATION)
- 3.THE SUPERINTENDENT OF POLICE,
CENTRAL PRISON, MADURAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN

CRL MP(MD) No.4028 of 2020

IN CRL A(MD) No.586 of 2019

Date :03/09/2020

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