



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

Wednesday, the Thirtieth 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.4498 of 2020
IN
CRL A(MD) No.283 of 2020

RAJESHWARI ... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KOVILPATTI WEST POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.286 OF 2012

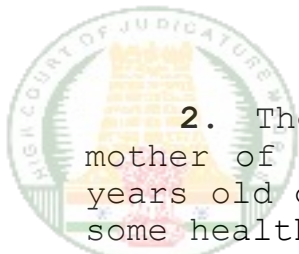
... RESPONDENT/RESPONDENT/COMPLAINANT

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 on the petitioner by the learned Mahila Court(Fast Track Court), Thoothukudi in S.C.No.338 of 2016, dated 04.12.2019 and enlarge her on bail pending disposal of the Criminal Appeal.

ORDER : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.M.JEGADEESH PANDIAN, Advocate for the petitioner and of MR.M.CHANDRASEKARAN, 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.338 of 2016, on the file of the Mahila Court (Fast Track Court), Thoothukudi. She was charged for the offence under Section 302 I.P.C. The learned Trial Judge, vide Judgment dated 04.12.2019, convicted and sentenced her to undergo life imprisonment and to pay a fine of Rs.5,000/- (Rupees five thousand only), in default to undergo six months rigorous imprisonment for the offence under Section 302 I.P.C. 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 by the Trial Court in the above sessions case.



2. The case of the prosecution is that the accused is the mother of the deceased Mari Selvi. The deceased Mari Selvi was 13 years old on the date of the occurrence and by birth, she was having some health issues. The further case of the prosecution is that the petitioner is having a son and the deceased was admitted in a residential School at Kovilpatti, but she did not continue there and came back to the residence. It is alleged that when the deceased refused to go back to the residential School, the petitioner poured kerosene on the deceased and set fire. Due to the injuries sustained in the occurrence on 12.06.2012, at 07.00 a.m., she died on 01.10.2012.

3. Mr.M.Jegadeesh Pandian, learned counsel for the petitioner, would argue that all the prosecution witnesses, except the official witnesses, did not support the case of the prosecution and the conviction has been made mainly on the basis of the dying declaration (Ex.P15). According to the learned counsel, the dying declaration was recorded in a computer typed form and there is no material to establish that the deceased was in the fit state of mind to give dying declaration. It is also contended that the offence committed by the petitioner would not come under Section 302 I.P.C., and it would come only under Section 304(I) or (II) I.P.C., since the occurrence had taken place due to sudden provocation.

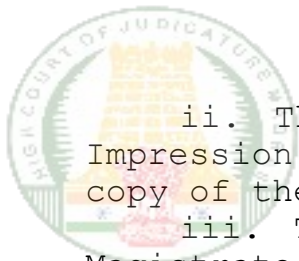
4. Per contra, Mr.M.Chandrasekaran, learned Additional Public Prosecutor, opposed the petition contending that the Doctor, who recorded the dying declaration (Ex.P15), has categorically deposed that the deceased was in a fit state of mind to give dying declaration and there is no infirmity in Ex.P15 and therefore, prayed for dismissal of the petition.

5. Heard the rival submissions and perused the materials available on record.

6. In the matter on hand, it is seen that the occurrence had taken place on 12.06.2012 at 07.00 a.m. P.W.1, father of the deceased, has deposed that on 11.06.2012 during night hours, the deceased returned from the residential School and when he and his wife / petitioner herein insisted her to go to the residential School, next day i.e.12.06.2012 at 07.00 a.m. she committed suicide.

7. 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, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Kovilpatti.



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, Kovilpatti, 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 her 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 she would absent.

sd/-

30/09/2020

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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 JUDGE,
MAHILA COURT (FAST TRACK COURT), THOOTHUKUDI.
- 2 THE JUDICIAL MAGISTRATE NO.II,
KOVILPATTI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.
- 4 THE INSPECTOR OF POLICE,
KOVILPATTI WEST POLICE STATION,
THOOTHUKUDI DISTRICT.
- 5 THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.4498 of 2020

IN

CRL A(MD) No.283 of 2020

Date :30/09/2020

KRK

JM/PN/SAR II/01.10.2020/3P/7C

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