



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

Monday, the Tenth day of February Two Thousand Twenty

PRESENT

**The Hon`ble Mr.Justice T.RAJA
and**

The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) Nos.9128 and 9129 of 2019

IN

CRL A(MD) No.497 of 2019

KARUPPASAMY

... PETITIONER/APPELLANT
IN BOTH PETITIONS

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
M.PUDHUPATTI POLICE STATION,
VIRDHUNAGAR DISTRICT.
(CR.NO.09/2012)

... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon the petitioner in S.C.No.52/2015 on the file of the learned Sessions Judge, Mahalir Neethimandram, (Fast Track Mahila Court), Virudhunagar District, at Srivilliputhur, dated 09.09.2019.

Prayer in CRL MP(MD). 9129/ 2019 :

To dispense with the payment of fine as imposed upon petitioner in SC No.52/2015 on the file of the learned Sessions Judge, Mahalir Neethimandram, (Fast Track Mahila Court) Virudhunagar District at Srivilliputhur dated 09.09.2019 pending disposal of the main Criminal Appeal.

Order : These petitions coming on for orders upon perusing the petitions filed in support thereof and upon hearing the arguments of M/S. A. THIRUVADI KUMAR, Advocate for the petitioner in both petitions and of MR.K.K.RAMAKRISHNAN, Additional Public Prosecutor on behalf of the Respondent in both petitions, the court made the following order:-



[Order of the Court was made by T.RAJA, J.]

This Criminal Appeal has been filed by the petitioner/accused, who was found guilty by the trial Court in S.C.No.52 of 2015, for the offence under Sections 302 and 404 IPC and for the offence under Section 302 IPC, he was sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo one years simple imprisonment and for the offence under Section 404 IPC, he was sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment. Challenging the said conviction and sentence, the accused has preferred this criminal appeal along with the above miscellaneous petition for suspension of sentence and also dispense with the fine amount.

2. Learned counsel appearing for the accused/appellant submitted that the occurrence took place on 11.01.2012 and FIR was registered on 12.01.2020, however, the petitioner/accused was arrested after a period of two years. It is further stated that when the appellant/accused was riding his two wheeler bike, the respondent Police waylaid the appellant/accused and only on suspicion, he was nabbed. Consequently, on the basis of confession statement made by the accused before P.W.6-VAO, recovery of ear studs and nose stud has been made. Therefore, with a *mala fide* intention, the appellant/accused was falsely implicated by the respondent/Police. The learned counsel further submitted that the prosecution witnesses were not supported with any other evidence and P.W.8-Raja, who was also working in the Jewelry shop, from where, the alleged ear studs and nose stud were said to have been recovered, also turned hostile. Therefore, the prosecution has failed to prove the case beyond reasonable doubt. Hence, he prayed for suspension of sentence.

3. Opposing the above prayer, the learned Additional Public Prosecutor, urging this Court to dismiss the petition stating that there were seven cases registered against the petitioner/accused. It is further submitted that the occurrence took place on 11.01.2012 and FIR was lodged on 12.01.2012 and thereafter, the respondent Police were seriously taking all deliberations to nab the accused, but, the accused was arrested only on 09.01.2014 and during the enquiry, he also confessed the commission of offence before P.W.6-V.A.O., and also confessed the pledging of jewellery, that was taken away from the deceased. Further, P.W.8, a staff working in the jewellery shop, also came to the witness box to give evidence with regard to the pledging of jewellery and therefore, his evidence cannot be treated as hostile. Therefore, the prosecution has proved the case beyond reasonable doubt.

4. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor appearing for the



5. Considering the fact that there were seven cases registered against the accused and furthermore, the accused also confessed the commission of offence before P.W.6-VAO and he also confessed whatever he has taken away from the deceased and the same was pledged in the jewellery shop, for which, P.W.8 was also examined to prove the same, we are not inclined to entertain the petition for suspension of sentence.

6. Accordingly, Crl.M.P.(MD)No.9128 of 2019, seeking suspension of sentence is dismissed.

7. In view of dismissal of the petition seeking suspension of sentence, Crl.M.P.(MD)No.9129 of 2019, seeking to dispense with the payment of fine imposed on the petitioner in S.C.No.52 of 2015 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Virudhunagar District), is also dismissed.

sd/-

10/02/2020

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

TO

1. THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, (FAST TRACK MAHILA COURT),
VIRUDHUNAGAR DISTRICT, AT SRIVILLIPUTHUR.
2. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
M.PUDHUPATTI POLICE STATION, VIRDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) Nos.9128 and 9129 of 2019

IN

CRL A(MD) No.497 of 2019

Date :10/02/2020

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