

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Ninth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.2926 of 2021

IN CRL.A.No.114 of 2021

1 GANESAN
2 SELVAMMBAL

[PETITIONERS / APPELLANTS /
ACCUSED 2 & 3]

Vs

STATE REP.BY [RESPONDENT]
DEPUTY SUPERINTENDENT OF POLICE,
NEYVELI SUB DIVISION,
KURINJIPADI POLICE STATION,
CUDDALORE DISTRICT.
CR.NO.294 OF 201

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.114/2021 on the file of the High Court, the High Court will be pleased to suspend Judgment dated 22.01.2021 made in S.C.No.236 of 2018 passed by the learned Sessions Judge, Mahila Court, Cuddalore and enlarge the petitioners/appellants on bail in pending Crl.A.No.114 of 2021.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.114/2021. on the file of the High Court and upon hearing the arguments of M/S.G.HARIHARAN, Advocate for the Petitioners and of M/S.T.P.SAVITHA, Government Advocate (crl.side) on behalf of the Respondent the court made the following order:-

The petitioners herein /accused 2 and 3 are the parents of the first accused, viz., the husband of the deceased. The marriage between the first accused and the deceased was solemnized on 20.06.2016. As the petitioners/accused 1 to 3 beat and harassed the deceased by demanding jewels and money, the deceased suffered mental agony and therefore, she committed suicide on 29.09.2017. Subsequently, a case in Crime No.294 of 2017, was registered by the respondent-Police against the first accused and the petitioners herein / accused 2 & 3 for the offence under Section 498-A of IPC and 304 B of IPC. After framing of charges and on completion of trial, the petitioners / accused 2 & 3 found guilty under Section

498-A of IPC and convicted and sentenced them to undergo Simple Imprisonment for a period of two years and each of them to pay a fine of Rs.5,000/- in default of payment of fine, each of them shall undergo Simple Imprisonment for a further period of three months and acquitted them of the charge under Section 304-B of IPC.

2. Against such finding, the Criminal Appeal has been filed by the petitioners / accused 2 and 3 alone. Along with, present CrI.M.P.No.2926 of 2021 has been filed seeking to suspend the sentence imposed on the petitioners/accused 2 and 3, by judgment dated 22.01.2021 in S.C.No.236 of 2018, on the file of the learned Sessions Judge, Mahila Court, Cuddalore.

3. The learned counsel for the petitioners would submit that there are several infirmities and inconsistencies found in the prosecution case. It is contended that the deceased and the first accused were living separately from the date of their marriage, i.e., 20.06.2016 and the petitioners / accused 2 and 3 have never lived under the same roof, and as such, there was no possibility for demanding dowry and causing cruelty, as alleged by the prosecution, which was also stated before P.W.13., the Revenue Divisional Officer. The brother of the deceased was examined as P.W.1 and during the examination, he has not stated any allegation against the petitioners herein / accused 2 and 3, and P.W.13-the Revenue Divisional Officer gave a statement from the evidence of P.W.1, in which, nothing has been elicited to implead these petitioners for the offence under Section 498-A of IPC, and as such, the ingredients of the offence under Section 498-A of IPC has not been made out by the prosecution. However, the learned Sessions Judge, without considering the same, convicted the petitioners, and hence, seeks for suspension of sentence.

4. The learned Government Advocate (Criminal Side) would submit that there is a clear overtact against the first accused and he has not filed any Appeal and as against the Judgment passed by the learned Sessions Judge, Mahila Court, Cuddalore, the petitioners / Accused 2 and 3, who are the parents of the first accused and the in-laws of the deceased, alone have filed this Appeal and there are materials to show that the petitioners have caused cruelty against the deceased and also demanded dowry and therefore, the learned Sessions Judge, on proper appreciation of evidence, rightly convicted the petitioners herein.

5. Heard the learned counsel for the petitioners and perused the materials available on record.

6. It is to be noted that nowadays the commitment of suicide by women, due to dowry harassment, are rising day by day. On the other hand, the in-laws are escaping from their liability saying that they are not living with their son, even though they are living

separately, but, they are inducing their son for getting dowry, by way of, money, jewels, two wheeler, car etc., It is also to be noted that since the in-laws are not residing with their son and the victim women, and on that ground, they are seeking suspension of sentence, and this Court has also considered several petitions, on such ground. Taking advantage of that, a wrong message has gone to the Society that the parents can easily escape from their liability and the alleged offence. It is to be further noted that mere giving a birth to a child, and providing shelter and good education, and motivating their child to get a job alone is not enough, and the first and foremost responsibility of the parents is that they should groom their children as responsible citizens.

7. From the materials available on record, there are materials against the petitioners / accused 2 and 3 also, and the learned Sessions Judge, on proper appreciation of materials available on record against the petitioners / accused 2 and 3, convicted them for the offence under Section 498-A of IPC, and acquitted them of the charge under Section 304-B of IPC.

8. Given the nature and gravity of offence committed by the accused, this Court is not inclined to suspend the sentence. Finding no merits, this miscellaneous petition shall stand dismissed.

9. The Registry is directed to call for records from the Court below within a week, prepare the typed set of papers and list the appeal under the caption for 'final hearing' on 28.04.2021.

-sd/-
29/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

3 THE DEPUTY SUPERINTENDENT OF POLICE,
NEYVELI SUB DIVISION,
KURINJIPADI POLICE STATION,
CUDDALORE DISTRICT.

4 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS

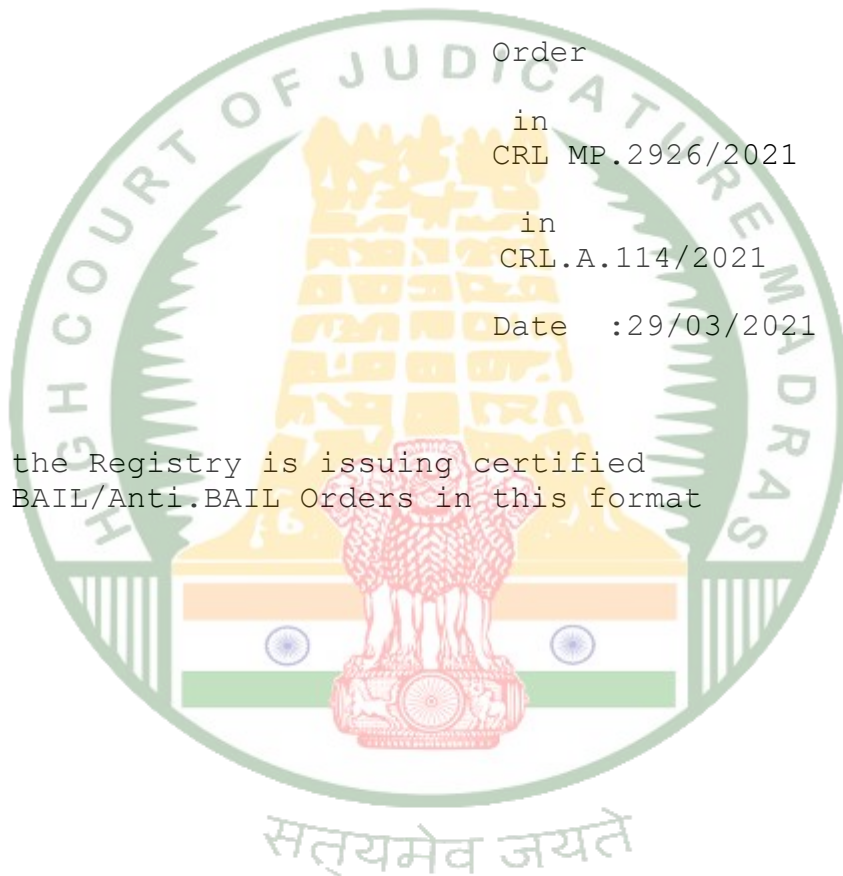
C.C. to M/S. A.SASIDHARAN Advocate on payment of necessary
charges

Order
in
CRL MP.2926/2021

in
CRL.A.114/2021

Date :29/03/2021

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 01/04/2021



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