

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Sixth day of March Two Thousand Twenty One

PRESENT

The Hon'ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.3995 of 2021

IN CRL.A.No.143 of 2021

R.KARTHIK

[APPELLANT / 1ST ACCUSED]

Vs

THE STATE REP.BY

[RESPONDENT / COMPLAINANT]

THE INSPECTOR OF POLICE,
RASIPURAM POLICE STATION,
NAMAKKAL DISTRICT.
CR.NO.801/2011

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.143/2021 on the file of the High Court, the High Court will be pleased to suspend the sentence passed Judgment in S.C.No.05 of 2014 dated 02.12.2020 on the file of the Hon'ble Court of Sessions (Fast track Mahila) Judge, Namakkal and enlarge the petitioner on bail pending the above Crl.A.No.143/2021.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.143/2021 on the file of the High Court and upon hearing the arguments of M/S.S.VINOTH KUMAR, Advocate for the Appellant and of M/S.T.P.SAVITHA, Government Advocate (crl.side) on behalf of the Respondent the court made the following order:-

This petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment dated 02.12.2020 in S.C.No.5 of 2014 on the file of the learned Sessions Judge (Fast Track Mahila Court), Namakkal.

2. The respondent/police registered the case against the petitioner herein/A1 and seven others under Section 174 Cr.P.C. which was altered into Section 498 (A) and 306 IPC. After completion of trial, the trial Court acquitted the accused No.2 to 8 and convicted the petitioner herein for the offence under Section 498(A) IPC and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.1,000/-, in default, to undergo

six months simple imprisonment; and also for the offence under Section 306 IPC and sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment. Challenging the said conviction and sentence, the petitioner/A1 filed the present petition seeking suspension of sentence during the pendency of the Criminal Appeal.

3. The learned counsel for the petitioner/A1 would submit that originally the case was registered under Section 174 Cr.P.C, after Revenue Divisional Officer's enquiry, it was altered into Section 498 (A) and 306 IPC, however, the Revenue Divisional Officer and the de facto complainant / father of the deceased were not examined. Further, none of the witnesses have spoken about the demand of dowry and the appellant has not induced or abetted the deceased to commit suicide. There are material contradictions and discrepancies in the prosecution witnesses. He would further submit that the trial Court has failed to appreciate the entire evidence wrongly convicted and sentenced the petitioner and he is in custody. Therefore, he prays to grant suspension of sentence to the petitioner.

4. In support of his contention, the learned counsel for the appellant cited the following Judgments S.S.Chheena Vs.Vijay Kumar Mahajan (2010) 12 SCC 190 ; and Amalendu Pal Alias Jhantu Vs. State of West Bengal (2010) 1 SCC 707.

5. The learned Government Advocate (Crl.Side) would submit that during the trial, the de facto complainant/father of the deceased died and hence, he could not be examined. The prosecution has established that the petitioner/A1 married the deceased and it was a love marriage. Subsequently, after six years of their marriage, the petitioner/A1 physically and mentally harassed the deceased and demanded T.V.S 50 vehicle and also developed illegal intimacy with one Saranya(P.W.15) and therefore, the deceased wife had committed suicide along with her child. The trial Judge rightly appreciated the entire evidence and convicted and sentenced the petitioner/appellant.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Admittedly, the petitioner is the husband of deceased wife and father of the child. Due to dowry harassment and illegal intimacy with another woman, the deceased committed suicide along with her child. There is overtact against the petitioner/A1 and the prosecution witnesses have also clearly spoken about the commitment of suicide and also commission of offence. The trial Court, after considering the entire materials, found that the accused committed the charged offence and convicted and sentenced the petitioner. There is no ground made out to grant suspension of sentence to the petitioner.

8. Considering the serious nature of the offence committed by the petitioner under Section 498(A) and 306 IPC, this Court is not inclined to grant suspension of sentence to the petitioner.

9. Accordingly, this miscellaneous petition is dismissed.

-sd/-

26/03/2021

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

TRUE COPY

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

TO

1 THE SESSIONS JUDGE,
(FAST TRACK MAHILA COURT),
NAMAKKAL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
RASIPURAM POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S.P.VIMAL RAJ Advocate on payment of necessary charges

Order

in
CRL MP.3995/2021
in
CRL.A.143/2021

Date :26/03/2021

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