



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fifth day of November Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mrs Justice R. HEMALATHA

CRIMINAL MISCELLANEOUS PETITION No.10599 of 2021

IN CRL.A.No.920 of 2019

KRISHNAN

[APPELLANT/ACCUSED (IN JAIL)]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
TIRUCHENGODU TOWN POLICE STATION,
NAMAKKAL DISTRICT.
CRIME NO.113/2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by judgment dated 30/08/2019 passed by the Sessions (Fast Track Mahila) Judge, Namakkal, Namakkal District in S.C.No.32 of 2016 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal before this Hon'ble Court and thus render justice.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.B.VASUDEVAN, Advocate for the Petitioner and of M/S.R.MUNIYAPPARAJ, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

(Order of the Court was made by P.N.PRAKASH,J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 30.08.2019 passed in S.C.No.32 of 2016 on the file of the Sessions Court (Fast Track Mahila Court), Namakkal and to enlarge the petitioner on bail pending disposal of the above appeal.



2. The petitioner, who was an accused in S.C.No.32 of 2016 before the Sessions Court (Fast Track Mahila Court), Namakkal, was convicted and sentenced as follows on 30.08.2019:

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S.No.	Provision under which convicted	Sentence
1	Section 498-A IPC	Two years rigorous imprisonment and fine of Rs.1,000/-, in default to undergo three months rigorous imprisonment.
2	Section 302 IPC	Life imprisonment and fine of Rs.1,000/-, in default to undergo six months rigorous imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the aforesaid conviction and sentence, the petitioner has filed Crl.A.No.920 of 2019 along with Crl.M.P.No.19204 of 2019 seeking suspension of sentence and bail, which was dismissed by this Court on 20.08.2020 and this is the second petition seeking suspension of sentence and bail.

4. Heard Mr.B.Vasudevan, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that the petitioner and Malliga were residing in Pallipatty Veeranam and the petitioner used to come drunk and not give any money for the household. On the fateful day, when Malliga asked for money, the appellant is said to have assaulted her, slapped her with a jumper instrument, resulting in her death.

6. The petitioner was found by Susila (PW2), who turned hostile, in the company of Malliga fully drunk, at the relevant point of time.

7. At this juncture, pertinent it is to point out that the Supreme Court, in Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)¹, has considered Kashmira Singh v. State of Punjab² and has held as follows:

"30.In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as



observed in Vijay Kumar [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195 : JT 2002 Supp (1) SC 60] that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice in such cases is not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted."

8. In view of the above reasoning and also taking into consideration the facts and circumstances of the case, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed.

However, the Registry is directed to call for the records, prepare the typed set of papers and post the main appeal for final disposal in the first week of January 2022.

-sd/-
25/11/2021

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 (FAST TRACK MAHILA) JUDGE,
NAMAKKAL, NAMAKKAL DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
TIRUCHENGODU TOWN POLICE STATION,
NAMAKKAL DISTRICT.

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



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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C.C. to M/S.B.VASUDEVAN Advocate on payment of necessary charges

Order

in
CRL MP.10599/2021
in
CRL A.920/2019

Date :25/11/2021

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

RW 29/11/2021