



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

Friday, the Thirteenth day of August Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP (MD) No.603 of 2021
IN
CRL A (MD) No.334 of 2020

PANCHAVARNAM

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KEELATHOOVAL POLICE STATION,
MUDHUKULATHUR TALUK,
RAMANATHAPURAM DISTRICT.
CRIME NO.55 OF 2005

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to SUSPEND THE SENTENCE AND FINE imposed by the learned Principal District and Sessions Judge, Ramanathapuram in SC.No.112 of 2007 dated 26.02.2020, pending disposal of the Criminal Appeal.

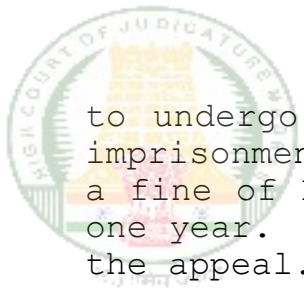
PRAYER IN CRL A(MD)No.334 of 2020:

To set aside the conviction and sentence passed by the learned Principal District & Sessions Judge, Ramanathapuram in S.C.No 112 of 2007 dated 26.02.2020 and acquit the Appellant.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.MURUGAN, Advocate for the Appellant and of Mr.S.RAVI, Standing Counsel on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **V.BHARATHIDASAN. ,J**)

The petitioner, who is the sole accused in Sessions Case No.112 of 2007, on the file of the Principal District and Sessions Judge, Ramanathapuram, was tried for the offences under Sections 302 and 201 of I.P.C. He was convicted for the charges of 302 and 201 of I.P.C., and sentenced to undergo life imprisonment for the offence under Section 302 I.P.C., and to pay a fine of Rs.5,000/-, in default



to undergo simple imprisonment for one year; 5 years rigorous imprisonment for the charge under Section 201 of I.P.C., and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for one year. Challenging the conviction and sentence, he has preferred the appeal. Pending appeal, he seeks suspension of sentence.

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2. The case of the prosecution is that the deceased is the wife of the petitioner, and the petitioner was having illicit intimacy with the wife of his brother. On 05.07.2005, when the deceased questioning the conduct of the petitioner, a wordy quarrel arose between them and the petitioner strangled her, and thereby caused her death, thereafter set fire on her. P.Ws.1 and 2 are relatives of the deceased and also neighbours. Earlier the trial Court, after considering the materials, acquitted the accused. Challenging the same, P.W.1, the brother of the deceased has filed a revision before this Court and this Court has set aside the order of acquittal and remanded the matter back for fresh consideration. On remand, the trial Court on considering the evidence available on record, convicted the petitioner and sentenced him as mentioned above.

3. Mr.R.Murugan, learned counsel appearing for the petitioner would submit that there is no evidence available on record to show that at the time of occurrence, the petitioner was present in the scene of occurrence. Even though P.W.2, the brother of the deceased in his evidence stated that he saw the accused ran away from the scene of occurrence, in his earlier statement before the R.D.O., he did not say so. The prosecution did not prove none of the circumstances, despite the same, the trial Court convicted the accused.

4. Per contra, Mr.S.Ravi, learned Standing counsel appearing for the respondent would argue that the deceased is the wife of the petitioner, occurrence took place in his house and P.Ws.1 and 2 saw the accused ran away from the scene of occurrence. That apart, since the occurrence has taken place inside the house, the burden is on the petitioner to explain how the occurrence has taken place. Hence, the trial Court considering all the materials has rightly convicted the petitioner and the petitioner is not entitled for bail.

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

6. In the matter on hand, the deceased is the wife of the petitioner, the occurrence said to have taken place inside the house of the petitioner, there is no eyewitnesses to the occurrence and the case has been registered based on the circumstantial evidence. P.W.2, the neighbour has deposed that the accused ran away from the scene of occurrence immediately after the occurrence. However, it was disputed by the petitioner. To prove the same, the earliest statement given before the R.D.O. as Ex.D1, wherein he has submitted that, there is no other circumstances



available to connect the accused with the crime, except the fact that the occurrence has taken place inside the house of the petitioner.

7. Considering the above facts, we are of the opinion that the petitioner has made out a prima facie case for grant of suspension of sentence, during the pendency of the appeal. 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 a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like-sum to the satisfaction of the Judicial Magistrate, Mudukulathur, Ramanathapuram District.

ii. The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders.

iii. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 of Cr.P.C. and appear before the trial Court on any other day, as determined by the trial Court, in lieu of the day on which he would absent.

sd/-

13/08/2021

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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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
RAMANATHAPURAM.

2. THE JUDICIAL MAGISTRATE
MUDHUKULATHUR.

3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

4. THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

5. THE INSPECTOR OF POLICE
KEELATHOOVAL POLICE STATION,
MUDHUKULATHUR TALUK,
RAMANATHAPURAM DISTRICT.

6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to Mr.R.MURUGAN, Advocate SR.No.5373

ORDER

IN

CRL MP(MD) No.603 of 2021
IN

CRL A(MD) No.334 of 2020
Date :13/08/2021

SA/VR/SAR.3/19.08.2021/4P/8C