



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

Tuesday, the Thirtieth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.1583 of 2021
in
Crl.A.(MD) No.332 of 2020

VELMURUGAN

... PETITIONER/ APPELLANT/
ACCUSED NO.2

Vs

THE INSPECTOR OF POLICE
ABIRAMAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.93 OF 2018.

... RESPONDENT/ 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 imposed against the appellant in S.C.No.35 of 2019 on the file of the Hon'ble Principal District and Sessions Judge, Ramanathapuram dated 18.03.2020 and release the petitioner on bail till the disposal of the appeal.

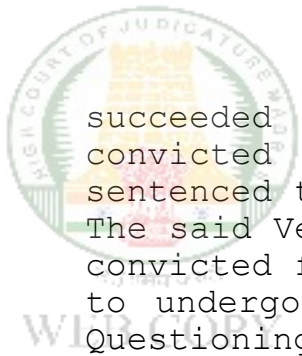
Prayer in CRL A(MD) No.332 of 2020:

To set aside the order passed in Criminal Appeal against the Judgment and Conviction passed by the learned Principal Session Judge, Ramanathapuram in **(*)S.C.No.35 of 2019** dated 18.03.2020.

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.ALAGUMANI, Advocate for the petitioner and of Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by **K.KALYANASUNDARAM, J.**]

The petitioner along with one Pothumponnu, wife of Arumugam were charged for commission of murder. They faced trial before the Principal District and Sessions Court, Ramanathapuram in S.C.No.35 of 2019. The Trial Court having found that the prosecution has



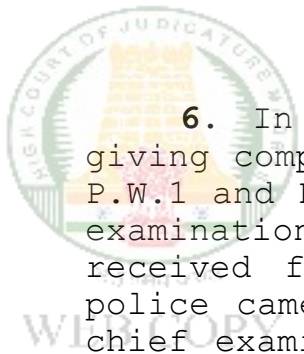
succeeded in proving the charges levelled against the accused convicted them for the offences under Section 302 I.P.C. and sentenced them to undergo life imprisonment with fine of Rs.2,000/-. The said Velmurugan / petitioner herein, who arrayed as A2, was also convicted for the offence under Section 449 I.P.C. and sentenced him to undergo 5 years rigorous imprisonment with fine of Rs.1,000/-. Questioning the conviction and sentence, the second accused has come forward with this appeal. Pending appeal, he seeks for suspension of sentence.

2. The case of the prosecution is that the deceased Arumugam is the husband of the first accused. The second accused is the step brother of the deceased. P.W.1 is the mother of the deceased. The story of the prosecution is that the deceased Arumugam was working in the State of Kerala. Taking advantage of that, the second accused developed illicit intimacy with the first accused, which was objected by the deceased. So, on 17.07.2018 at 12.00 midnight, the first accused with aruval and second accused with iron rod assaulted the deceased and thereafter, poured kerosine on the deceased and set fire.

3. The learned counsel for the petitioner Mr.R.Alagumani would submit that the prosecution has suppressed the earlier version of P.W.1. According to the learned counsel for the petitioner, P.W.1 categorically deposed that immediately, after the incident, the deceased was removed to the Paramakudi Government Hospital and thereafter, the police came and obtained a statement from her. But the Investigating Officer deposed that the complaint came to be lodged by P.W.1 at 09.00 a.m in the police station. It is also submitted that though the First Information Report was registered at 09.30 a.m, it reached the concerned court at 17.30 hours. The delay in lodging the complaint and the First Information Report in reaching the Court remained unexplained. It is also contended that the medical evidence is not supporting the case of the prosecution and hence, she is entitled for suspension of sentence.

4. Per contra, the learned Additional Public Prosecutor Mr.R.Anandharaj would oppose the application contending that P.W.1, who is the mother of the deceased, has categorically deposed about the illicit intimacy of the accused and immediately after the occurrence, she saw both the accused ran away from the scene of occurrence with weapons. It is further submitted that though P.Ws.2 to 7 and 9 turned hostile, but the evidence of P.Ws.1 and 8 would prove the complicity of the accused in this case and prayed for dismissal of the petition.

5. Heard both sides and perused the materials available on records.



6. In the instant case, with regard to the contradiction in giving complaint to the police could be found from the testimony of P.W.1 and P.W.20. In the chief examination as well as in the cross examination, P.W.1 has categorically stated that the complaint was received from her by the police in the hospital itself and the police came to the hospital within 10 minutes. But P.W.20 in the chief examination has stated that P.W.1 came to the police station at 09.00 a.m and after obtaining complaint from her, the First Information Report was registered. That apart, it appears that no explanation was forthcoming to explain the delay pointed out by the learned counsel for the petitioner.

7. In the light of the above facts, we are of the opinion that the petitioner is entitled for suspension of sentence during pendency of the appeal. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, each for a like-sum to the satisfaction of the District Munsif-cum-Judicial Magistrate, Kamuthi.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.

iii. The petitioner shall appear before the Committal Court at 10.30 a.m., on the first working day of every English calendar month, until further orders.

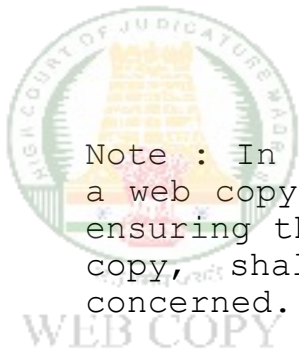
iv. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 Cr.P.C. and appear before the committal court on any other day, as determined by the Committal Court, in lieu of the day on which they would absent.

sd/-
30/03/2021

**(*)Corrected as per order dated
19.04.2021 in CRL MP(MD) Nos.1583 in
CRL.A(MD)No.332 of 2020.**

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/ /2021
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

(*)To be substituted with the order dated 08/04/2021 already despatched

- 1 THE PRINCIPAL DISTRICT AND SESSION JUDGE,
RAMANATHAPURAM.
- 2 THE DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE,
KAMUTHI.
- 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
- 4 THE SUPERINTENDENT,CENTRAL PRISON, MADURAI.
- 5 THE INSPECTOR OF POLICE
ABIRAMAM POLICE STATION,
RAMANATHAPURAM DISTRICT.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.1583 of 2021 in
Crl.A.(MD) No.332 of 2020
Date :30/03/2021

KRK
MS/JC/SAR-2/08.04.2021/4P.7C
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