



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

Friday, the Nineteenth 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.1664 of 2021
in
CRL A(MD)No.94 of 2021

GANESAN

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ULAGAMPATTI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.33/2010.

... 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 on the Petitioner by the learned Mahila Fast Track Court, Sivagangai in S.C.No.186/2020 dated 19.02.2020 and enlarge the petitioner on bail pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD)No.94 of 2021:

Pleased to call for the records in S.C.No.186 of 2010 dated 19.02.2020 on the file of the learned Mahila Fast Track Court, Sivagangai and set aside the same.

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.M.JEGADEESH PANDIAN, Advocate for the petitioner and of Mr.R.ANANDARAJ, 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 appellant in this appeal is the original accused in S.C.No.186 of 2010 on the file of the Fast Track Mahila Court, Sivagangai. He was tried for the offences punishable under Sections 354, 302 and 309 IPC. The Trial Court came to the conclusion that the prosecution has proved all the charges against the accused and



thereby convicted him and sentenced him including life imprisonment. Challenging the same, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

2.The case of the prosecution is that the deceased is the permanent residence of the Maniyarampatti. P.W.1 Uma Maheshwari was married to the accused and the deceased is her sister and sister in law of the accused. The story of the prosecution is that after marriage, the accused was residing in the house of his father in law. While so, on 25.03.2010 at 09.30, when the deceased and the accused were alone in their house, the accused attempted to have physical relationship with the deceased. When it was refused, he enraged over the same attacked her with hammer, thereby caused her death. Immediately, the deceased was carried to a private hospital in Ponnamaravathi and she died on 26.03.2010. Thereafter, the accused consumed poison.

3.The prosecution in all examined 18 witnesses and marked 15 documents and M.Os.1 to 3 to prove the charges against the accused. The Trial Court convicted and sentenced the accused as stated above.

4.The learned counsel for the petitioner Mr.M.Jegadeesh Pandian would argue that though the occurrence is said to have been taken place at 09.30 a.m, on 25.03.2010, but the complaint was given only at 14.00 hours on 26.03.2010 i.e., after the death of the deceased. In the earliest statement, recorded by P.W.9 in Ex.P.6 Accident Register, it is mentioned that she is sustained injury by falling into a Well. It is also contended that Pws.13 and 14, who are said to have been seen the accused with hammer immediately after the occurrence, did not support the case of the prosecution. He further added that as per the prosecution, the accused was arrested on 31.03.2010 and based on his confession statement, M.O.1 hammer was recovered, however, P.W.14 has stated that he found hammer in the scene of occurrence. It is also contended that the evidence of Investigating Officer (P.W.18) would show that the witnesses have given exaggerated statement in their evidence. Further admittedly, neither in the observation mahazer nor in the rough sketch, blood stain is found in the place of occurrence and hence, the petitioner is entitled for suspension of sentence.

5.Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the State would submit that even though there is no eyewitness to the incident, however, the prosecution has proved the charges against accused. Further, immediately after the occurrence, the accused was found in the scene of occurrence with hammer. According to the learned Additional Public Prosecutor, at the time of occurrence, the accused and the deceased were alone in the house and after the occurrence, the accused consumed poison, which shows his involvement in this occurrence. After analysing the evidence, the Trial Court rightly found the accused guilty and he is



6. Heard the rival submission of both the counsels and perused the materials available on records.

7. In the instant case, it is not in dispute that the petitioner is the brother in law of the deceased and the occurrence is said to have been taken place on 25.03.2010 at 09.30 a.m. Though P.W.2 and P.W.3 were available in the scene of occurrence, they did not prefer any complaint till 14.00 hours on 26.03.2010. The evidence of P.W.9 and Ex.P.6 would reveal that the deceased was taken to the hospital by one Selvaraj, where he has stated that the deceased sustained injury due to fall into a Well and the said Selvaraj was not examined as witness in this case. Further, the evidence of P.Ws.13 and 14 have not supported the case of the prosecution and they have been treated as hostile and there is a doubt with regard to the recovery of M.O.1 also.

8. 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 each for a like-sum to the satisfaction of the District Munsif -cum- Judicial Magistrate, Thiruppathur, Sivagangai District.

ii. The petitioner shall appear before the committal Court on the first working day of every English calendar 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 Cr.P.C. and appear before the committal Court on any other day, as determined by the said Court, in lieu of the day on which they would absent.

sd/-
19/03/2021

/ TRUE COPY /

/ /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



TO

1. THE JUDGE,
MAHILA FAST TRACK COURT, SIVAGANGAI.
2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUPATHUR, SIVAGANGAI DISTRICT.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
4. THE INSPECTOR OF POLICE
ULAGAMPATTI POLICE STATION,
SIVAGANGAI DISTRICT.
5. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
6. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.1664 of 2021
in
CRL A (MD) No.94 of 2021
Date :19/03/2021

SKN
TK/VR/SAR.1/01.04.2021/4P/7C