



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

Monday, the Sixth day of September Two Thousand and Twenty One
PRESENT

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

Crl.M.P. (MD) .No.2228 of 2021
in
Crl.A. (MD) .No.137 of 2021

KARNAN

... PETITIONER/ APPELLANT

Vs

THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
VALLIYOOR SUB DIVISION,
PANAGUDI POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.31/2013.

... RESPONDENT/ RESPONDENT

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 upon the Petitioner pursuant to the Judgment dated 29.12.2020 Passed in S.C No.144 of 2014 on the file of the Sessions Judge, Mahila Court, Tirunelveli and enlarge the Petitioner on bail till the disposal of the appeal and to grant such other relief or reliefs that this Honourable Court may deem fit and proper in the circumstances of the case.

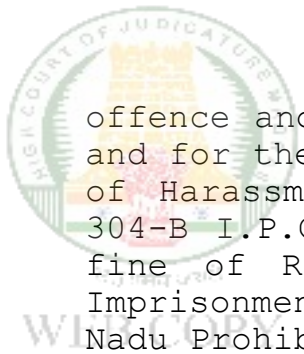
Prayer in Crl.A. (MD) .No.137 of 2021:

To call for the records and set aside the judgment dated 29.12.2020 Passed in S.C No.144 of 2014, on the file of the Sessions Judge, Mahila Court, Tirunelveli, in so far as the appellant is concerned, by allowing this Criminal Appeal.

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.S.Subbaiah, Senior Counsel for MR.G.ARAVINTHAN, Advocate for the petitioner/appellant and of MR.S.RAVI, Standing counsel for the State for the respondent, the court made the following order:-

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

Totally there are three accused. The petitioner is arrayed as A-1 in S.C.No.144 of 2014 on the file of the Sessions Judge, Mahila Court, Tirunelveli. The trial Court, on appreciation of evidence, convicted A-2 and A-3 and held that the petitioner has committed the



offence and convicted him for the offence under Section 304-B I.P.C and for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998. For the offence under Section 304-B I.P.C, sentenced him to undergo life imprisonment and to pay fine of Rs.50,000/- and in default to undergo one year Simple Imprisonment and for the offence under Section 4(B) of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998, sentenced him to undergo life imprisonment and to pay a fine of Rs.50,000/- and in default to undergo one year Simple Imprisonment. Both the sentences are ordered to be run concurrently. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

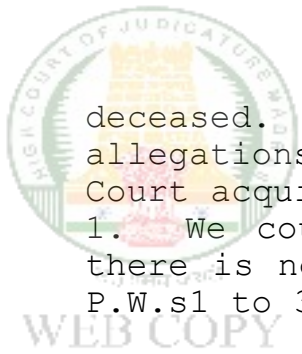
2.The case of the prosecution is that the deceased is the wife of the appellant/petitioner. The marriage took place in the year 2009 and right from the marriage, all the three accused said to have harassed the deceased and demanded dowry. Due to that harassment, she committed suicide on 01.02.2013. Based on the complaint given by the brother of the deceased, a case in Crime No.31 of 2013 was registered and on completion of investigation, final report was filed before the trial Court. After full-fledged trial, the trial Court convicted and sentenced the appellant/petitioner as stated above.

3. Mr.S.Subbaiah, learned Senior Counsel for Mr.G.Aravinthan, learned counsel appearing for the petitioner/appellant would submit that, except the evidence of interested witnesses P.Ws.1 to 3, brother, mother and sister of the deceased, there is no other independent witness were examined by the prosecution to prove the alleged harassment. Even though the allegations were made against all the accused, the trial Court acquitted A-2 and A-3, however, convicted the petitioner alone. He would further submit that the petitioner/appellant is having bright chance of succeeding the appeal.

4. Mr.S.Ravi, learned Standing counsel appearing for the State opposing the bail application would submit that the petitioner/appellant is the husband of the deceased. P.Ws.1 to 3, who are the brother, mother and sister of the deceased, clearly stated regarding demand of dowry and hence, the trial Court considering those aspects, has correctly convicted the petitioner/appellant. That apart, pending trial, the petitioner/appellant absconded five times and only by issuance of Non-Bailable Warrant, he was arrested and if the sentence was suspended, there is likelihood of absconding.

5.We have considered the rival submissions made and perused the materials available on records.

6. From the perusal of the records, it is seen that there are <https://hcservices.courts.gov.in/hcservices> accused, who are the husband and in-laws of the



deceased. From the evidence, it could be seen that there are allegations against all the three accused. However, the trial Court acquitted A-2 and A-3. But, convicted only the petitioner/A-1. We could also see that except the evidence of P.Ws.1 to 3, there is no other evidence available to corroborate the evidence of P.W.s1 to 3.

7. Considering the above circumstances, We find that, a *prima facie* case has been made out for grant of suspension of sentence.

8. Considering the above aspects, we are inclined to grant suspension of sentence. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended. However, considering the fact that the petitioner/appellant had absconded five times, pending trial, We are inclined to impose certain stringent conditions as follows:

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, Valliyoor.

ii. The petitioner shall appear before the trial Court at 10.30 a.m., on every Monday 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 Court concerned on any other day, as determined by the Court concerned, in lieu of the day on which he would absent.

sd/-

06/09/2021

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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 SESSIONS JUDGE,
MAHILA COURT, TIRUNELVELI.

2 THE JUDICIAL MAGISTRATE, VALLIYOOR.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
VALLIYOOR SUB DIVISION,
PANAGUDI POLICE STATION,
TIRUNELVELI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to MR.G.ARAVINTHAN, Advocate (SR-5975[I] dated 06/09/2021)

ORDER

IN

Crl.M.P. (MD) .No.2228 of 2021
in

Crl.A. (MD) .No.137 of 2021

Date :06/09/2021

PM

MK/PN/SAR.III/08.09.2021/4P/8C