



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(CRIMINAL JURISDICTION)

MONDAY, THE TWENTY SECOND DAY OF MARCH TWO THOUSAND AND TWENTY ONE

PRESENT

THE HON`BLE MRS.JUSTICE R.THARANI

CRL MP(MD) NO.2116 OF 2021
IN
CRL.A(MD).NO.129 OF 2021

A.BALASUBRAMANIAN

... PETITIONER/APPELLANT/ACCUSED

Vs

THE INSPECTOR OF POLICE
VADIPATTI POLICE STATION,
MADURAI DISTRICT.
CRIME NO. 73/2013.

... 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 Suspending the sentence imposed upon appellant/accused by judgement dated 21.01.2021 made in S.C No. 386/2014 by the Honourable Sessions Judge, Mahalir Neethimandram, Madurai Suspending Pending disposal of this Criminal Appeal.

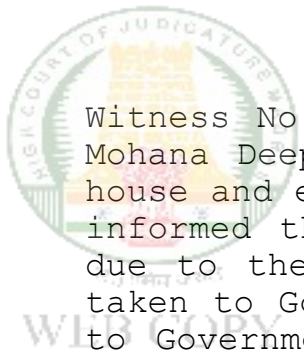
PRAYER IN CRL.A(MD).NO.129 OF 2021:

Pleased to call for the records pertaining to the judgment dated 21.01.2021 passed in S.C.No.386 of 2014 by the learned Sessions Judge, Mahalir Neethimandram, Madurai and set aside the same and allow this 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 M/S.Y.KRISHNAN, Advocate for the petitioner and of Mrs.S.Bharathi, Government Advocate on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

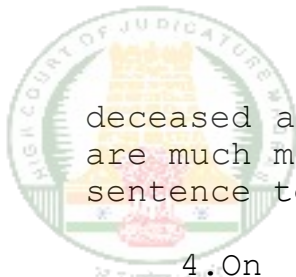
This petition has been filed to suspend the sentence imposed on the petitioner in S.C.No.386 of 2014, on the file of the Sessions Judge, Mahalir Neethimandram, Madurai, pending disposal of the Criminal Appeal.

2.The allegation against the petitioner is that on 16.02.2013, at about 1.00 pm, the accused trespassed into the house of the



Witness No.1 and attempted to outrage the modesty of the deceased/ Mohana Deepa and the deceased opened the door and came out of the house and escaped. On the next day, ie. on 17.02.2013, the deceased informed the occurrence to her sister/ P.W.2 and felt ashamed and due to the mental torture, she consumed poison and after she was taken to Government Hospital, Vadipatti and later, she was referred to Government Rajaji Hospital, Madurai and she died. A case was registered against the petitioner in Crime No.73 of 2013 by the respondent and the same was taken on file as S.C.No.386 of 2014, on the file of the Sessions Judge, Mahalir Neethimandrum, Madurai. The Judge, Mahalir Neethimandrum, Madurai, found the petitioner guilty under Sections 451 and 354 I.P.C. and convicted and sentenced him to undergo one year rigorous imprisonment for each of the offence and to pay a fine of Rs.1,000/ for each of the offence and in default, to undergo a further period of three months simple imprisonment for each of the offence and the trial Court found the petitioner guilty under Section 306 I.P.C. and convicted and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo a further period of one month simple imprisonment. The trial Court found the petitioner guilty under Section 4B of Tamil Nadu Prohibition of Harassment of Woman Act, and convicted and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo a further period of one year simple imprisonment. Against the conviction and sentence, the petitioner preferred an Appeal in Crl.A.(MD)No.129 of 2021. Along with the appeal, the petitioner has filed the present petition for suspension of sentence.

3. On the side of the petitioner, it is stated that the allegation against the petitioner is that he jumped over the wall through the neighbour's house and tried to outrage the modesty of the deceased, but, the rough sketch of the occurrence place clearly reveals that no such wall which can be jumped over from the neighbour's house. The Investigation Officer in his evidence has deposed that no such wall is mentioned in the rough sketch (Ex.P10). The empty bottle which contains poison was not recovered by the police. P.W.1 is not an eye witness, she is only a hearsay witness. P.W.2 came to know about the occurrence only through P.W.1. The evidence of P.W.2 reveals that he came to the house only at 4.00 p.m.. In the evidence of P.W.1, it is stated that P.W.1 reported the incident to P.W.2 in the morning. The evidence of P.W.9 and P.W.10 clearly reveals that the accused did not trespass into the house of the deceased. There is no eye witness and no suicide note. Based on the hearsay evidence of P.W.1 and P.W.2, the trial Court convicted the petitioner. When there is no chance for entering into the house of the deceased, there is no question of outraging modesty of the deceased. There is no evidence of harassment. There was love affair between the petitioner and the deceased and the harassment was only by P.W.1 and her husband /



deceased and the petitioner is in custody from 21.01.2021 and there are much more points for arguments in the main appeal and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the prosecution has examined 12 witnesses and marked 11 documents. Postmortem report was marked as Ex.P5. Inquest report was marked as Ex.P11. Forensic report was marked as Ex.P6. The evidence of P.W.1 clearly support the case of the prosecution. The accused misbehaved with the deceased and she immediately came out and escaped . The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody from 21.01.2021 onwards, ie., for the past two months. It is seen that there are some points for consideration in the main appeal. There is no possibility for the appeal to be taken up for hearing in the near further. The petitioner was on bail through out the trial. In the above circumstances, this Court is inclined to suspend the sentence.

6.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Mahalir Neethimandram, Madurai.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iii) the petitioner shall appear before the Trial Court **daily at 10.30 a.m.**, until the disposal of the appeal or until further orders.

sd/-
22/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE Sessions Judge, Mahalir Neethimandram, Madurai

2 THE INSPECTOR OF POLICE
VADIPATTI POLICE STATION,

<https://hcservices.eas.gov.in/ncservlet> MADURAI DISTRICT.



3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.

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

+2. C.C. to M/S.Y.KRISHNAN Advocate SR.No.2344, 2355

ORDER
IN
CRL MP (MD) No.2116 of 2021
IN
CRL.A (MD).NO.129 OF 2021
Date :22/03/2021

NR/VR/SAR-IV(23.03.2021) 4P:7C