



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

Friday, the Thirtieth day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2743 of 2021

in

CRL A(MD)No.170 of 2020

PALANI

... PETITIONER/APPELLANT (A1)

Vs

THE STATE THROUGH
THE INSPECTOR OF POLICE,
RAILWAY POLICE STATION,
RAMESWARAM, RAMANATHAPURAM DISTRICT.
CRIME NO.62/2013

... 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 on the Petitioner/Appellant No.1, in Crl.A(MD)No.170 of 2020 (A1) in S.C.No.46 of 2016 on the file of the learned Additional Sessions Judge (In Charge) Fast Track Mahila Court, Ramanathapuram dated 10.03.2020 be suspended for an interim period of 10 days.

Pryaer in CRL A(MD) No.170 of 2020:

To call for the records and set aside the judgment of conviction and sentence rendered by the learned Additional Sessions Judge (In Charge) Fast Track Mahila Court, Ramanathapuram in S.C.No.46 of 2016 dated 10.03.2020 as against the appellants(A1 and A2) above named.

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.N.ANANTHAPADMANABHAN, Advocate for M/S.APN LAW ASSOCIATES for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl. Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner/A1 in SC No.46 of 2016 on the file of the Additional Sessions Judge (In Charge), Fast Track Mahila Court, Ramanathapuram, dated 10.01.2020 and enlarge the petitioner/A1 on bail, till the disposal of the criminal appeal.



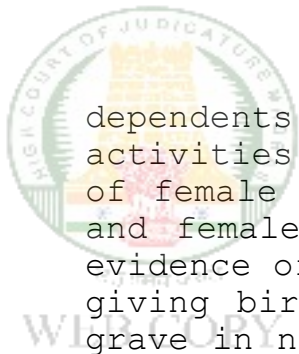
2.The case of the prosecution is that A1 and his parents harassed the deceased Rekka and insisted her to commit suicide along her two female children by falling in front of the running train. A case in Crime No.62 of 2013 under section 302 IPC was registered against the accused persons by the Rameswaram Railway Police. The case was taken on file by the learned Judicial Magistrate No.II, Ramanathapuram, in P.R.C No.5 of 2016 and later, it was transferred to the file of the Sub Court, Ramanathapuram and taken on file as Sessions Case No.46 of 2016. The learned Additional Sessions Judge convicted the petitioner under section 306 IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo 6 months Rigorous Imprisonment.

3.The learned counsel appearing for the petitioner/A1 submitted that there are contradictions in respect of registration of FIR and in the RDO report, there is no evidence with regard to dowry harassment or any form of harassment and prior to the occurrence, there was no quarrel between the deceased and A1 and at the time of occurrence, the deceased went to her parents house and only due to the quarrel between her and her parents, she committed suicide and there was no nexus between the death of the deceased and A1 and prays for suspension of sentence.

4.On the other hand, the learned Government Advocate (Criminal side) appearing for the respondent/State submitted that A1 demanded dowry and subjected her to cruelty in a drunken mood and only due to the activities of her husband, the deceased with her two children committed suicide and the trial court has rightly convicted the petitioner/A1 and there are enough materials available on record against the petitioner/A1 and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

6.On perusal of the evidence of material witnesses filed on the side of the prosecution, it is stated that in respect of the harassment made by her husband, the deceased gave a complaint before the Uchipuli Police Station and after enquiry, A1 was warned not to harass the deceased, but A1 continuing the harassment and only due to the harassment made by A1, she along with her two children committed suicide. PW1 and PW2 categorically stated that for the harassment made by A1, the deceased went to Uchipuli Police Station and gave complaint and it was admitted by the Investigating Officer also. In this case, PW3 and PW4 cited as eye witnesses to speak about the harassment made by A1. Even though PW3 and PW4 turned hostile, their evidence cannot be rejected *in toto*. PW3 and PW4 stated during their evidence that A1 harassed the deceased for giving birth of two female children. Giving birth of a female child is a crime under section 302B IPC and it was committed at the hands of the deceased mother and it



dependents upon the psychological effect and depending upon the activities of chromosome. It is needless to say that for the birth of female children, A1 is also one of the cause and both the male and female children can be treated as one and the same. From the evidence of PW1 to PW4, it reveals that A1 harassed the deceased for giving birth of two female children. In this case, the offence is grave in nature. Hence, this court is not inclined to grant bail to the petitioner/A1.

7. In fine, this Criminal Miscellaneous Petition fails and the same is dismissed.

sd/-
30/04/2021

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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

- 1 THE ADDITIONAL SESSIONS JUDGE (IN CHARGE)
FAST TRACK MAHILA COURT, RAMANATHAPUARAM.
- 2 THE INSPECTOR OF POLICE,
RAILWAY POLICE STATION,
RAMESWARAM, RAMANATHAPURAM DISTRICT.
- 3 THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.2743 of 2021
in
CRL A(MD) No.170 of 2020
Date : 30/04/2021

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AE/VR/SAR-IV/19.05.2021/2P/5C

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