



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Eleventh day of June Two Thousand and Twenty One

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PRESENT

The Hon'ble Mr.Justice K.KALYANASUNDARAM

and

The Hon'ble Mr.Justice G.ILANGO VAN

CRL MP (MD) No.2851 of 2021

in

CRL A (MD) No.165 of 2020

M.YASAR ARABATH

... PETITIONER/APPELLANT/
ACCUSED No.1/ACCUSED No.1

(Now confined at Madurai Central Prison, Madurai)

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
THENKARAI POLICE STATION,
THENI DISTRICT, THENI.
CRIME NO.430 OF 2014.

... RESPONDENT/RESPONDENT
COMPLAINANT/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 in Judgment dated 17.02.2020 in S.C.no.87 of 2016 on the file of the Mahila Fast Track Court, Theni and enlarge him on bail pending disposal of the instant Criminal Appeal.

Prayer in CRL A(MD) . 165/ 2020 :

Criminal Appeal filed may be pleased to call for the records of the judgment dated 17.02.2020 in S.C.No.87 of 2016 on the file of the Mahila Fast Track Court, Theni in Crime No.430 of 2014 on the file of the Respondent Police and set aside the same and Acquit the Appellant/ Accused No.1.

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.J.LAWRANCE, Advocate for the petitioner and of Mr.S.RAVI, Standing Counsel for Government on behalf of the Respondent, the Court made the following order:-



(Order of the Court was made by G.ILANGOVAN, J)

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Mahila Fast Track Court, Theni, in S.C.No.87 of 2016, dated 12.07.2019, and enlarge the petitioner/Appellant on bail, pending disposal of the criminal appeal.

2. The case of the prosecution is that the petitioner herein and the deceased were married to each other on 26.10.2014, as per their religious customs. After marriage, the deceased and the petitioner were living in a joint family, along with the other accused persons in their residence. On the night of the marriage, all the accused, harassed the deceased by demanding the balance jewels, which are promised to be given, at the time of marriage, by the parents of the deceased. They also abused her in filthy language and also asked her to die. The first accused namely, the petitioner herein, harassed the deceased sexually by biting the deceased in various parts of the body. So, because of the harassment, the deceased committed suicide on 30.10.2014, at about 00.30 hours in the morning in the residence of her parents. So, all the accused were charged under Section 304 (B) IPC and 498 (A) IPC.

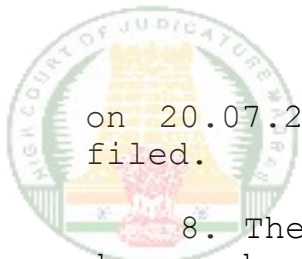
3. To prove the charges, on the side of the prosecution, 13 witnesses were examined and 14 documents marked and 1 Material object was exhibited. On the side of the accused, 1 witness was examined and 4 documents were marked.

4. The Trial Court after considering the materials available on record, came to the conclusion that the charges against the accused were proved beyond all reasonable doubts.

5. Accordingly, the trial Court sentenced the first accused to undergo life imprisonment for the offence under Section 304 (B) IPC and sentenced the other accused to undergo 10 years rigorous imprisonment for the offence under Section 304 (B) IPC and they were also convicted under Section 498 (A) IPC. However, no separate sentence was imposed under Section 498 (A) IPC. Compensation amount of Rs.5,00,000/- (Rupees Five Lakhs Only) was also ordered to the parents and brother of the deceased.

6. Challenging the conviction and sentence, all the accused persons have preferred the appeals. Pending appeals, all the accused persons have filed Criminal Miscellaneous Petitions seeking suspension of sentence and in respect of the accused Nos.2 to 4, suspension was ordered by this Court, vide order dated 09.03.2020, in CrI.M.P(MD)Nos.2034 and 2037 of 2020 in CrI.A(MD)Nos.111 & 112 of 2020.

7. This is the second suspension of sentence application filed by the petitioner. The earlier application filed in Cr.MP(MD)No.3031 of 2020 in CrI.M.P(MD)No.165 of 2020 was withdrawn by the petitioner,



on 20.07.2020, and subsequent to that, this petition came to be filed.

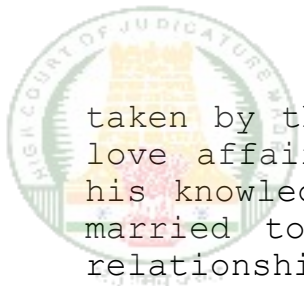
8. The learned counsel for the petitioner would submit that the deceased committed suicide not because of any sexual torture and harassment of demanding dowry by the petitioner and the others, but, because of the assault made by her parents. For that purpose, he would take us through the evidence of P.W.1 before the Trial Court and as well as his statement before the Revenue Divisional Officer. Copy of the same is produced before this Court in the Additional Typed set of papers. He would further submit that the sequence of events be lie the prosecution version. According to him, the date of marriage is 26.10.2014. On 27.10.2014, the petitioner and the deceased came to the parental home as per the customary practise. So, on 28.10.2014, the deceased returned to her matrimonial home. On 29.10.2014, the deceased consumed phenoil in the matrimonial home. This was informed to P.W.1 and others. They went to the matrimonial home and enquired about that. On the same day night, the deceased was taken to the parental home by the petitioner and on 30.10.2014, in the morning, at 00.30 hours, the deceased committed suicide by hanging herself.

9. According to the learned counsel for the petitioner, during the night hours, the parents of the deceased assaulted her since she refused to live with the petitioner by forgetting her earlier love affair. According to him, this is the root cause of the suicide. So, the petitioner is in no way connected in this occurrence. Apart from this, some other grounds were raised by the petitioner. In our considered view those grounds are not relevant to this petition at this stage. Those grounds can be taken only during the course of argument in the main appeal.

10. Per contra, the learned Public Prosecutor would submit that within 3 or 4 days from the date of marriage, the death occurred due to the harassment of demanding payment of dowry and balance jewels. Apart from that, sexually harassing the deceased, she was driven to commit suicide. So, enough materials are available against the petitioner and so, he does not deserve any consideration for suspension of sentence.

11. Heard Mr.J.Lawrance, learned counsel appearing for the petitioner and Mr.S.Ravi, learned Standing Counsel for Government appearing for the respondent.

12. Perused the materials available on record. It is very unfortunate that within 3 or 4 days from the date of marriage, the deceased was driven to commit suicide because of the situation that was prevailing during the relevant time. As usual, it is the case of the prosecution that only due to the harassment for demanding payment of dowry and humiliation by verbal abuse and physical sexual harassment, she was driven to commit suicide. But, defence has been



taken by the petitioner to the effect that the deceased was having love affair before the marriage and that fact was suppressed from his knowledge and on the compulsion of her family members, she was married to him. But, she was not in a position to forget that relationship and so, the trouble arose.

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13. But, whatever it may be, these things may be decided in the course of arguments in the main appeal and these grounds were rejected by the lower Court. The crux of the finding has to be decided only during the course of final disposal. But, one thing, which appears on record, is that the deceased was having more than 10 physical injuries all over her body. Who caused that injuries is the main point to be decided in this appeal. But, one important admission has been made by P.W.1 during the statement before the Revenue Divisional Officer is that after leaving the deceased in her parental home, the petitioner contacted P.W.1 through phone and asked him to take care of the deceased. P.W.1 also admitted that when he left the deceased in her paternal home, he told him that he will wait for even 10 years period of time for the deceased to change her mind and he will be prepared to accept her at any time. So, this important statement shows that the petitioner was having concern and care for the deceased. P.W.1 has also admitted during the course of statement that when his paternal uncle came to the house, the deceased told him that she damaged the reputation of her family and so, she is going to commit suicide. On that night, she also committed suicide.

14. So, this important admission, on the part of P.W.1 shows that there are some arguable points available in favour of the petitioner to put forth during the arguments in the appeal. Moreover, he is in judicial custody from 17.02.2020. So, considered all those aspects, we deem it fit to suspend the sentence of the petitioner with certain conditions.

15. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended. The petitioner is directed to be enlarged on bail on condition that he shall execute 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 Mahila Fast Track Court, Theni, and on further condition that the petitioner shall appear before the respondent police once in a week i.e., on every Monday at 10.00 a.m, pending appeal.

sd/-
11/06/2021

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



TO

1. THE JUDGE,
MAHILA FAST TRACK COURT, THENI.
2. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
3. THE INSPECTOR OF POLICE,
THENKARAI POLICE STATION,
THENI DISTRICT,
THENI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to Mr.J.LAWRANCE, Advocate (SR-3968[I] dated 14/06/2021)

ORDER

IN

CRL MP(MD) No.2851 of 2021 in
CRL A(MD) No.165 of 2020

Date :11/06/2021

DSS

SRS/JC/SAR-II/15.06.2021/5P/6C