



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

Thursday, the Twenty Fifth day of February Two Thousand and
Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3200 of 2020
IN
CRL A(MD) No.183 of 2020

GOPAL

... APPELLANT/ SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
RAMESWARAM TOWN POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.130 OF 2013

... 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 and enlarge the petitioner on bail imposed in the judgment dated 21/02/2020 made in S.C.No.73 of 2015 on the file of the Learned Fast Track Mahila Judge, Ramanathapuram pending disposal of the above appeal.

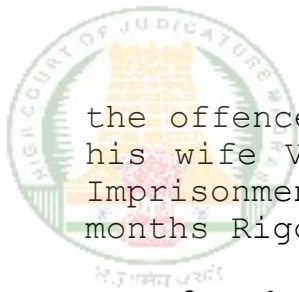
PRAYER IN CRL A(MD) No.183 of 2020:

To call for the records relating to the judgment dated 21.02.2020 made in S.C.No.73 of 2015 on the file of the learned Fast Track Mahila Judge, Ramanathapuram and set aside the conviction and sentence imposed against the appellant/ accused and allow the above appeal by acquitting the accused.

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.G.KARUPPASAMY PANDIAN, Advocate for the petitioner and of Mr.R.ANANDHARAJ, 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 sole accused, in S.C.No.73 of 2015 on the file of the Fast Track Mahila Judge, Ramanathapuram, was charged and convicted for
<https://hcservices.ecourts.gov.in/hcservices/>



the offence punishable under Section 302 of IPC for causing death of his wife Vanitha on 19.07.2013. He was sentenced to undergo Life Imprisonment with fine of Rs.2,000/- in default to suffer three months Rigorous Imprisonment.

2. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, this application to suspend the sentence of imprisonment has been filed.

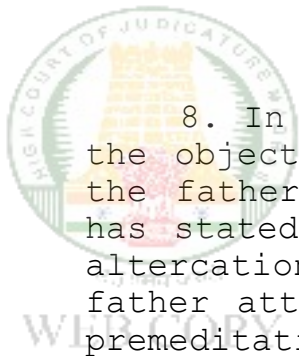
3. The case of the prosecution is that the deceased Vanitha and the accused are husband and wife. The father of the accused owns a house site value of Rs.3,00,000/- at Seetha Theertham. He was insisting the accused to dispose the said property to give share to his sisters. In this regard, there was a wordy quarrel ensured between the accused and the deceased and on 19.07.2013 at 02.00 a.m., again quarrel arose between them and the accused assaulted the deceased with knife and caused her death.

4. Mr.G.Karuppasamy Pandian, learned counsel appearing for the petitioner would argue that the prosecution relies on the evidence of P.W.1 said to have seen the occurrence, but his evidence is unbelievable and unnatural. It is also contended that the medical evidence is not supported the case of the prosecution. According to P.W.1, the deceased took her dinner at 9.00 p.m., but the occurrence had taken place at 02.00 a.m. But the doctor P.W.13, who conducted the autopsy, has stated that he found a partly digested food. So the occurrence could not have taken place as spoken by the eye witness P.W.1

5. It is also contended that a case was registered based on the complaint of the P.W.2 at 03.00 a.m., but P.W.2 says that he lodged a complaint only at 10.30 a.m. The witnesses also have stated that immediately after the occurrence, they had gone to the scene of occurrence and found the police, this shows that even before the registration of the complaint, the police came to the spot and the earlier statement has been deliberately suppressed by the prosecution.

6. Per contra, Mr.R.Ananda Raj, learned Additional Public Prosecutor appearing for the respondent would strongly opposed the petition stating that the testimony of P.W.1 has been corroborated by the evidence of P.Ws.2 & 4. According to them, on 19.07.2013 at 02.00 a.m., the accused inflicted the stab and cut injuries on the deceased and there is no reason to reject the evidences of P.Ws.1,2 & 4. Since the prosecution has proved the charge against the accused beyond reasonable doubt, he is not entitled for suspension of sentence.

7. We have heard both sides and perused the materials available on record.



8. In the matter on hand, the motive for the occurrence is that the objection of the deceased for the disposal of the property of the father of the accused. P.W.1 in his chief-examination itself has stated that at 02.00 a.m., on 19.07.2013 he found there was an altercation between his father and mother and only thereafter his father attacked the deceased with knife. This shows there was no premeditation or *mens rea* for committing the offence. It would have happened due to sudden provocation. That apart, we find some force in the contention of the learned counsel for the petitioner.

9. In the light of the above fact, we are inclined to grant an order in favour of the petitioner. 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, of whom, one should be a blood-related surety, each for a like sum to the satisfaction of the Fast Track Mahila Judge, Ramanathapuram.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Trial Court may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.

iii. The petitioner shall report before the Fast Track Mahila Court, Ramanathapuram on the first working day of every English Calender month at 10.30 a.m., until further orders.

iv. 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 said Court on any other day, as determined by the concerned Court, in lieu of the day on which they would absent.

sd/-
25/02/2021

/ 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 concerned.



TO

1 THE FAST TRACK MAHILA JUDGE, RAMANATHAPURAM.

2 THE INSPECTOR OF POLICE,
RAMESWARAM TOWN POLICE STATION,
RAMANATHAPURAM DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.M.JERIN MATHEW, Advocate (SR-1463[I] dated 25/02/2021)

ORDER

IN

CRL MP(MD) No.3200 of 2020

IN

CRL A(MD) No.183 of 2020

Date :25/02/2021

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MS/VR/SAR-4/05.03.2021/4P.6C