



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

Tuesday, the Seventh 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.5396 of 2021
in
Crl.A. (MD) .No.327 of 2021

AYYASAMY

... PETITIONER/APPELLANT/ACCUSED

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
ORATHANADU POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO. 508 OF 2015.

... 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 Suspend the execution of sentence by granting bail in SC.No.219 of 2017 on the file of the Mahalir Neethimandram, Fast Track Mahila Court, Thanjavur, Thanjavur District, dated 26.11.2018 till the disposal of Criminal Appeal.

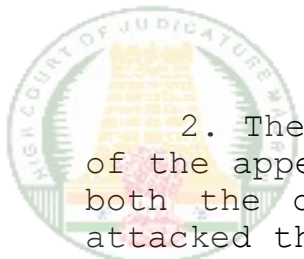
Prayer in Crl.A. (MD) .No.327 of 2021:

To call for the records from the lower court in S.C.No.219 of 2017 on the file of the Mahalir Neethimandram, Fast Track Mahila Court, Thanjavur, Thanjavur District, dated 26.11.2018 and set aside the same and acquit the Appellant.

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.JULIET LATHA.A, Advocate for the petitioner and of MR.S.RAVI, Standing Counsel for the Government on behalf of the Respondent, the court made the following order:-

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

The petitioner herein is the sole accused in Sessions Case No.219 of 2017, on the file of the Mahalir Neethimandram, Fast Track Mahila Court, Thanjavur, Thanjavur District. The Trial Court, on appreciation of evidence, held that the petitioner has committed the offence and convicted him for the offence under Section 302 I.P.C., and sentenced him to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one year simple imprisonment. 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/accused. On 16.11.2015, there was a quarrel between both the deceased and the accused and at that time, the accused attacked the deceased with iron rod on her head and caused injuries. Immediately, she was taken to Medical College Hospital at Thanjavur. On the next day, she succumbed to the injuries. P.Ws.1 and 2, are the sons of the deceased and the accused, they were present at the time of occurrence and they are the eyewitnesses to the occurrence. After completing the trial, the Trial Court convicted the petitioner as mentioned above and sentenced him to undergo life imprisonment. Challenging the same, the present appeal has been filed.

3. The learned counsel appearing for the petitioner would submit that there are lot of discrepancies in the evidence of P.Ws.1 and 2 and therefore, their evidence cannot be believed. Further, the medical evidence is also not corroborating the evidence of P.Ws.1 and 2. Without considering the same, the trial Court wrongly convicted the petitioner/appellant.

4. Mr.S.Ravi, learned Standing counsel appearing for the State opposing this petition, would submit that P.Ws.1 and 2 are the sons of the deceased and the accused and they are eyewitnesses to the occurrence. The F.I.R was also filed immediately where the petitioner/accused was named and there is no reason to disbelieve the evidence of P.Ws.1 and 2 and hence, the petitioner is not entitled for bail.

5. Heard the rival submissions and perused the materials available on records.

6. From the evidence, it is seen that P.Ws.1 and 2 are the sons of the deceased and the petitioner/accused and they are the eyewitnesses to the occurrence. According to them, the occurrence had taken place in the house of the accused and in the quarrel, the accused attacked the deceased with iron rod on the head and caused her death and therefore, we find no reason to disbelieve their evidence. The discrepancies pointed by the learned counsel for the petitioner are all minor discrepancies which are not going to materially affect the case.

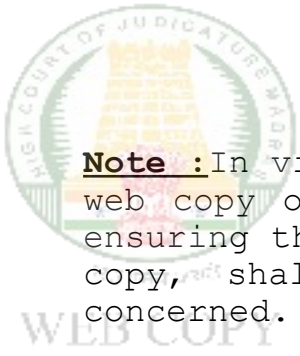
7. In such circumstances, We are of the view that it is not a fit case to suspend the sentence imposed by the trial Court. Hence, this Criminal Miscellaneous Petition is dismissed.

Sd/-
07/09/2021

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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 MAHALIR NEETHIMANDRAM,
FAST TRACK MAHILA COURT, THANJAVUR,
THANJAVUR DISTRICT.
- 2 THE INSPECTOR OF POLICE
ORATHANADU POLICE STATION,
THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
Crl.M.P. (MD) .No.5396 of 2021
in
Crl.A. (MD) .No.327 of 2021
Date :07/09/2021

VB/JC/SAR.III/13.09.2021/3P/5C