



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Third day of September Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

and

The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP(MD) No.4269 of 2021

IN

CRL A(MD) No.259 of 2021

PETCHIAMMAL

... PETITIONER/ APPELLANT /ACCUSED NO.1

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
TOWN POLICE STATION, ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
CRIME NO.108 OF 2009.

... 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 imposed against the appellant in SC.No.100 of 2009 on the file of the Hon`ble Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur dated 12.12.2018 and release him on bail till the disposal of the appeal.

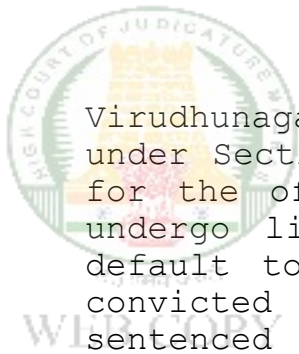
Prayer in CRL A(MD) No.259 of 2021:

To call for the entire records connected to the judgment in SC.No.100 of 2009 on the file of the Hon`ble Principal District and Sessions Judge, Virudhunagar District at Srivilliputhur dated 12.12.2018 and set aside the conviction and sentence imposed against 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.R.ALAGUMANI, Advocate for the petitioner and of MR.S.RAVI, Standing Counsel for State for the respondent, the court made the following order:-

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

The petitioner, who is the first accused in Sessions Case No.100 of 2009, on the file of the Principal Sessions Judge,



Virudhunagar District at Srivilliputhur, was tried for the offences under Sections 120(b), 302 r/w. 34 of I.P.C., and she was convicted for the offence under Section 120(b) of I.P.C., and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo three years rigorous imprisonment and she was convicted for the offence under Section 302 r/w. 34 of I.P.C. and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo three years rigorous imprisonment. Challenging the conviction and sentence, she has preferred the appeal. Pending appeal, she seeks suspension of sentence.

2. The case of the prosecution is that the deceased is the husband of the petitioner and she was employed in the rice mill owned by the father of A2 and she developed illicit intimacy with A2 and the said fact came to the knowledge of her husband, deceased Paramasivam and she was repeatedly warned. However, she continued to have such an intimacy with A2. Hence, the deceased had physically abused the petitioner. In the above circumstances, on 17.02.2009, A1 to A3 went to the house of the deceased and caught hold of Paramasivam and administered the poison and strangled him and caused his death. The trial Court, after considering the materials available on record, convicted the petitioner and sentenced her as stated supra. Challenging the same, the present appeal has been filed. Pending appeal, the petitioner has sought for suspension of sentence.

3. The learned counsel appearing for the petitioner would submit that the prosecution relies upon the circumstantial evidence that there is no explanation on behalf of the petitioner regarding the death of the deceased and the extra judicial confession given by the petitioner to the Village Administrative Officer and implicated the petitioner. He would further submit that the sentence imposed on the co-accused viz., A2 and A3 was suspended by this Court and the petitioner/ is in custody from December 2018.

4. Mr.S.Ravi, learned Standing counsel appearing for the State would submit that the petitioner is the wife of the deceased and the occurrence has taken place inside the house of the deceased and there is no proper explanation from the petitioner regarding the cause of death. That apart, she voluntarily appeared before the Village Administrative Officer and gave an extra judicial confession. The trial Court, considering the evidence, rightly convicted the accused. Hence, the suspension of sentence need not be granted to the petitioner.

5. We have heard the learned counsel on either side and perused the materials available on record.



6. The circumstantial evidence relied upon by the prosecution is that the occurrence has taken place inside house of the deceased and the petitioner alone is inside the house and there is no satisfactory explanation from the petitioner regarding the cause of death. The second circumstance regarding the extra-judicial confession given by the petitioner. Now, it is stated that the sentence imposed on the co-accused viz., A2 and A3 was suspended by this Court and the petitioner is in custody from December 2018. Hence, we are inclined to grant suspension of sentence to the petitioner, during the pendency of the appeal. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail, on her executing 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 the Principal District and Sessions Judge, Virudhunagar District, Srivilliputhur.

(ii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders.

iii. 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 of Cr.P.C. and appear before the trial Court on any other day, as determined by the trial Court, in lieu of the day on which he would absent.

sd/-

03/09/2021

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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 PRINCIPAL DISTRICT SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT, SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
TOWN POLICE STATION, ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
- 3 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.4269 of 2021
IN
CRL A (MD) No.259 of 2021
Date :03/09/2021

AKV
MK/VR/SAR.II/03.09.2021/3P/5C