



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

Tuesday, the Sixth day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) No.3847 of 2021
in
CRL A(MD)No.209 of 2020

GOMATHI @ SARANYA

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ORATHANADU POLICE STATION,
ORATHANADU, TANJORE DISTRICT.
(IN CRIME NO.279 OF 2015)

... 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 of imprisonment imposed vide judgment and order dated 21.02.2020 passed by the Special Court(Mahalir Neethimandram) Tanjore in S.C.No.267 of 2015 convicting the appellant under sections 294(b),302 r/w 109 IPC, pending disposal of this appeal.

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.SARATH CHANDRAN, Advocate for Mr.GOVINDCHANDRASEKAR, Advocate for the petitioner and of MR.S.RAVI, Standing Counsel for the State on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by **B.PUGALENDHI, J.**]

The petitioner has filed this miscellaneous petition seeking to suspend the sentence imposed upon her by the learned Sessions Judge, Fast Track Mahila Court, Thanjavur, in S.C.No.267 of 2016, dated 21.02.2020.



2. The petitioner / second accused along with another accused were charged as follows:

Accused	Offence under Section
A1	302 IPC
A2	294(b), 302 r/w 109 IPC

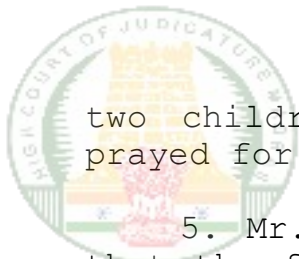
The trial Court, in conclusion of the trial, by judgment dated 21.02.2020, found the accused guilty for the offences charged, convicted and sentenced them as follows:

Accused	Offence	Punishment
A1	302 IPC	To undergo imprisonment for life and to pay a fine of Rs.5,000/-, i/d to undergo simple imprisonment for one year.
A2	294(b) IPC	To pay a fine of Rs.500/-, i/d to undergo simple imprisonment for one month.
	302 r/w 109 IPC	To undergo imprisonment for life and to pay a fine of Rs.5,000/-, i/d to undergo simple imprisonment for one year.

As against the judgment of conviction and sentence, the petitioner / second accused has preferred an appeal before this Court in CrI.A. (MD)No.209 of 2020, which has already been admitted. Pending the appeal, the petitioner has moved this application seeking suspension of sentence.

3. Mr.Sarath Chandran, learned Counsel for Mr.Govind Chandrasekar, learned Counsel on record for the petitioner submitted that the petitioner is no way connected with the alleged offence, however, she has been convicted along with the first accused, as if the petitioner had abetted the crime. The deceased in this case is the wife of the first accused and due to some misunderstanding between the husband and wife, the deceased committed suicide by pouring kerosene. But, in the dying declaration, she has roped in the petitioner that her husband / first accused was having some illegal relationship with the petitioner and on account of that, her husband had poured kerosene and set fire to her.

4. By relying upon the evidence of the Doctor, the learned Counsel submitted that when the deceased was admitted in the hospital, she was with 100% burn injuries and she has also stated before the Doctor that she committed suicide by pouring kerosene. However, as a subsequent development, the complaint has been drafted as if the first accused has poured kerosene and set fire and that there was an illegal relationship between the petitioner / second accused and the first accused. Though there is a delay of one day and three hours in reporting the incident, by relying on the alleged dying declaration, the trial Court has found her guilty, convicted and sentenced her. He also submitted that the petitioner is having



two children and they are left without any care. Therefore, he prayed for suspending the sentence pending the appeal.

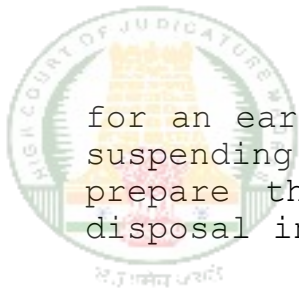
5. Mr.S.Ravi, learned Standing Counsel for the State submitted that the first accused, on the instigation of this petitioner, had poured kerosene on his wife, the deceased and set fire. The deceased has narrated the incident before the learned Judicial Magistrate [PW15] in a cogent manner. The petitioner was having illegal relationship with the first accused and the same was witnessed by the deceased. She has objected to the same and has quarrelled with the petitioner / second accused. On knowing that, the first accused has beaten the deceased and has also set fire on her, by pouring kerosene. The first accused has committed the offence only on the instigation of the petitioner / second accused. Therefore, the learned Standing Counsel objected to the grant of any relief to the petitioner / second accused.

6. This Court paid it's anxious consideration to the rival submissions and also to the materials placed on record.

7. This is the second application filed for suspending the sentence. The earlier application moved by the petitioner was dismissed as withdrawn on 19.11.2020. Learned Counsel for the petitioner pointed out that the conviction has been made only based on the dying declaration of the deceased, whereas, when the deceased was admitted in the hospital, she has stated that she only poured kerosene and set fire. The trial Court, in fact, discussed the same in detail and the learned trial Judge has answered this point that it was the mother-in-law of the deceased / first accused's mother, who admitted the deceased in the hospital and at that time, she only stated that the deceased poured kerosene. When the deceased was examined by the learned Magistrate [PW15], she has narrated the entire episode in a cogent manner. Though the deceased has suffered 100% burn injury, the Doctor who was present at the time of recording the dying declaration has verified the condition of the deceased and has certified that she is in a fit state of mind to give the dying declaration.

8. The marriage between the deceased and the first accused was held in the year 2014 and even before the marriage, it appears that the accused persons were having illegal relationship. When the deceased noticed the same, there was a quarrel between the accused and the deceased and consequently, the deceased died due to burn injuries within a year from the date of marriage. In view of the foregoing discussions, we are not inclined to suspend the sentence at this stage and accordingly, this miscellaneous petition stands dismissed.

9. At this juncture, learned Counsel for the petitioner submitted that the petitioner / second accused is having two children who are left without any care and therefore, requested



for an early hearing of the appeal. Since the application filed for suspending the sentence has been dismissed, Registry is directed to prepare the typed set of papers and list the appeal for final disposal in the first week of September, 2021.

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06/07/2021

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/ /2021

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

TO

- 1 THE SPECIAL JUDGE,
(MAHALIR NEETHIMANDRAM), TANJORE.
- 2 THE INSPECTOR OF POLICE,
ORATHANADU POLICE STATION,
ORATHANADU, TANJORE DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON(WOMEN CELL), THIRUCHIRAPPALLI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.3847 of 2021
IN
CRL A(MD)No.209 of 2020
Date :06/07/2021

GK
MS/SKN/SAR-3/09.07.2021/4P.5C