



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

Thursday, the Twenty Second day of July Two Thousand and Twenty One

PRESENT

WEB COPY

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

CRL MP (MD) No.4568 of 2021
in
CRL A (MD) .NO.276 of 2021

KALEESWARAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KAENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.
(IN CRIME.NO.270/2012)

... 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 sentences of imprisonment passed in the Judgment of conviction and sentence in S.C.No.101 of 2015 dt. 30/07/2019 on the file of the learned Sessions Judge, MahalirNeethimandram (Fast Track Mahila Court), Ramanathapuram.

PRAYER IN CRL A (MD) .276 OF 2021

To call for the records pertaining to the Judgment of conviction and sentences passed in S.C.No.101 of 2015 dated 30.07.2019 on the file of the learned Sessions Judge, MahalirNeethimandram (Fast Track Mahila Court), Ramanathapuram and set-aside the same as illegal and acquit the Appellant pass any other orders which this Hon'ble Court.

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.B.N.RAJA MOHAMED, Advocate for the petitioner and MR.S.RAVI, Standing Counsel for the State, the court made the following order:-



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

The sole accused in S.C.No.101 of 2015 was tried for the offences punishable under Sections 302 and 506(i) IPC and vide Judgment, dated 30.07.2019, he was found guilty for the offence under Section 302 IPC and sentenced to undergo life imprisonment for the above said offence with a fine of Rs.2,000/- carrying default sentences by the learned Sessions Judge, Fast Track Mahalir Neethimandram, Ramanathapuram. Challenging the said conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

2.The case of the prosecution is that on 26.05.2012 at about 07.30 p.m, there was a quarrel between the petitioner and his wife, the deceased and subsequent to that, the petitioner is said to have taken a firewood and inflicted injuries on the deceased.

3.Mr.B.N.Raja Mohamed, learned counsel for the petitioner would submit that P.W.2 and P.W.7 are the relative and house-owner of the deceased and they said to have witnessed the accused coming out of the house immediately, however, they did not support the case of the prosecution and they turned hostile. The Trial Court, based on the circumstantial evidence, arrest and recovery, found the petitioner guilty and convicted him. He would further contend that there is no direct witness in this case and the case has been registered based on the circumstantial evidence.

4.Per contra, learned Standing Counsel appearing for the respondents Mr.S.Ravi would submit that this is a case of circumstantial evidence. The petitioner is none other than the husband of the deceased. Prior to the occurrence, there was a quarrel between the petitioner and the deceased and thereafter, the petitioner assaulted the deceased with firewood and caused her death. He would further submit that the witnesses have also witnessed the petitioner that he come out of the house after the occurrence. 166 statements are against him. Therefore, the Trial Court has rightly convicted him and hence, he is not entitled for suspension of sentence and the grounds which are raised before this Court, can be raised at the time of final hearing.

5.This Court carefully considered the rival submissions of both the counsel and perused the materials available on record.

6.Admittedly, this is a case of circumstantial evidence and the case of the prosecution is that the petitioner and the deceased are husband and wife and the petitioner has developed some illicit intimacy with another lady and has left his matrimonial home, for which, the deceased has lodged a complaint. On the date of occurrence, as per the prosecution case, there was a quarrel between



the petitioner and the deceased and subsequent to the quarrel, the petitioner is said to have taken out a firewood and caused fatal injury to the deceased. The Trial Court has taken the circumstantial evidence as against this petitioner and found him guilty that the complaint was lodged immediately at 08.00 p.m and the FIR reached the Court at 11.00 p.m and also arrest of the petitioner at 07.00 a.m and the recovery of the weapon, viz., firewood from the petitioner's house.

7.The learned counsel for the petitioner has pointed out that this recovery of weapon is not established properly since the recovery has been made at what point of time and place. Even admitting the entire case of the prosecution, the averments made against this petitioner is false under the category with regard to the arrest and recovery also.

8.The learned counsel for the petitioner has made some arguable points. Therefore, considering the above aspects, we are of the opinion that the petitioner is entitled for suspension of sentence during the pendency of this appeal. Accordingly, this 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 executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, each for a like sum to the satisfaction of the Sessions Judge, Fast Track Mahalir Neethimandram, Ramanathapuram.

ii. The petitioner shall appear before the Committal Court at 10.30 a.m. on the first working day of every English Calendar month 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 Cr.P.C. and appear before the committal Court on any other day, as determined by the committal Court, in lieu of the day on which they would absent.

sd/-
22/07/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE SEESIONS JDUGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT)
RAMANATHAPURAM

2 THE SUPERINTEDENT,
CENTRAL PRISON, MADURAI

3 THE INSPECTOR OF POLICE
KAENIKKARAI POLICE STATION,
RAMANATHAPURAM DISTRICT.

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

ORDER
IN
CRL MP (MD) No.4568 of 2021
in
CRL A (MD) .NO.276 of 2021
Date :22/07/2021

NA/JC/SAR1/30/07/2021 : P4 :5C