



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

Monday, the Twenty Third day of August Two Thousand and Twenty One
PRESENT

WEB COPY

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP(MD) No.4378 of 2021
IN
CRL A(MD)No.263 of 2021

RAJA

... APPELLANT/ACCUSED No.1

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SRIVAIGUNDAM POLICE STATION,
THOOTHUKUDI DISTRICT
CRIME NO. 246/2014.

... 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 of Imprisonment imposed by the Learned I- Additional district and Sessions Judge, Thoothukudi in S.C No. 145/2017 by the judgment dated 22.03.2021 and enlarge the Petitioner /Appellant on bail pendign disposal of the above said Criminal Appeal.

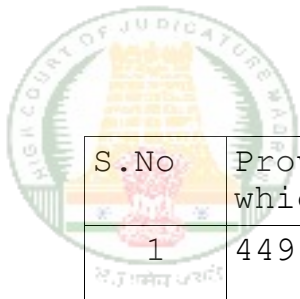
PRAYER IN CRL A(MD)No.263/2021:

To call for the records to set aside the Judgment and Conviction dated 22.03.2021, by the learned I-Additional District and Sessions Judge, Thoothukudi in S.C.No.145 of 2017 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 Mr.RAMESH RAJA, Advocate for Mr.R.PON KARTHIKEYAN, Advocate for the Appellant and of Mr.S.RAVI, Standing Counsel for State on behalf of the Respondent, the court made the following order:-

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

Totally there are two accused in S.C.No.145 of 2017, on the file of the learned I Additional District and Sessions Judge, Thoothukudi, and the petitioner is A1. The petitioner/A1 was found guilty and convicted and sentenced as follows:-



S.No	Provision under which convicted	Sentence of Imprisonment	Fine Amount
1	449 IPC	5 Years R.I.	Rs.1,000/-, in default, to undergo three months Simple Imprisonment.
2	302 IPC	Life Imprisonment	Rs.2,000/-, in default, to undergo three months Simple Imprisonment.
3	380 IPC	5 Years R.I.	Rs.1,000/-, in default, to undergo three months Simple Imprisonment.

The sentences were ordered to run concurrently.

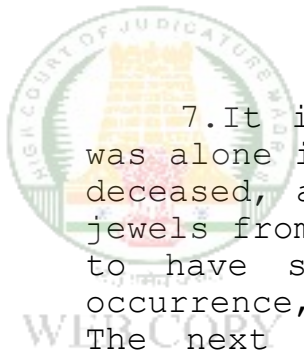
2. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, the petitioner / A1 has sought for suspension of sentence.

3. The case of the prosecution is that the deceased is a lady and when she was alone in the house, the accused trespassed into the house of the deceased, as Air Conditioner Mechanic, caused her death and stolen jewels from the house. Hence, the case was registered. The trial Court, after considering the materials, convicted and sentenced the accused, as above.

4. The learned counsel appearing for the petitioner would submit that it is a case of circumstantial evidence and none of the circumstances relied upon by the prosecution has been proved beyond the reasonable doubt. There are lot of contradictions in the evidences of the P.W.7, P.W.8 and P.W.9, regarding the time of occurrence. That apart, the medical evidence also not supporting the prosecution case. The accused has been implicated only on suspicion. The trial Court without considering none of the circumstances convicted the accused.

5. Mr.S.Ravi, the learned Standing Counsel appearing for the State submitted that it is a case of matter for gain. The deceased is a lady, when she was alone in the house, the accused trespassed into the house, caused her death and stolen jewels. The stolen articles were also recovered from the accused. The medical evidence also corroborating the prosecution theory. Considering all other circumstances, the trial Court has rightly convicted the petitioner/appellant and there is no error in the Judgment, considering the gravity of the offence, sentence cannot be suspended.

6. We have considered the rival submissions made and perused the materials available on record.



7.It is a case of murder for gain. When the deceased lady was alone in the house, the accused trespassed into the house of the deceased, as Air Conditioner Mechanic, caused her death and stolen jewels from the house. According to P.W.7, P.W.8 and P.W.9 who said to have seen the accused roaming in that area, prior to the occurrence, is one of the main circumstance against the accused. The next circumstances is recovery. On the next day of the occurrence, all the stolen jewels has been recovered from the accused, there is no explanation by the accused regarding possession of the stolen jewels. The third circumstance is medical evidence, which corroborate with the prosecution case. Considering all those circumstances, as it is a case of murder for gain and considering the gravity of the offence, we are not inclined to grant suspension of sentence.

8. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
23/08/2021

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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 LEARNED I-ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI.
- 2.THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.
- 3.THE INSPECTOR OF POLICE
SRIVAIGUNDAM POLICE STATION,
THOOTHUKUDI DISTRICT

ORDER IN

CRL MP(MD) No.4378 of 2021
IN
CRL A(MD)No.263 of 2021
Date :23/08/2021

SA/VR/SAR.1/31.08.2021/3P/4C

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