



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

Monday, the Fourth day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD)No.6022 of 2021
IN
CRL A(MD)No.589 of 2019

JEYAMANI

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KRISHNANKOVIL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.2 OF 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 Sentence imposed against the Petitioner in SC.No.129 of 2012 dated 27.11.2019 on the file of the Learned Sessions Judge (Mahila Fast Track Court), Srivilliputhur, Virudhunagar and enlarge his on bail pending disposal of appeal.

PRAYER IN CRL A(MD)No.589 of 2019:

To call for the records relating to the judgment in S.C.No.129/2012 dated 27.11.2019 on the file of the Sessions Judge (Mahila Fast Track Court), Srivilliputtur, Virudhunagar and set aside the same and allow this Criminal 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.M.SUBASH BABU, Advocate for the Appellant and of Mr.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

The petitioner is the sole accused in S.C.No.129 of 2012, on the file of the Sessions Judge, (Mahila Fast Track Court), Srivilliputhur, Virudhunagar District, and he stood charged and tried for the offences under Section 302 of I.P.C.



2. The trial Court, vide impugned judgment dated 27.11.2019, has convicted the petitioner for the above said offence and imposed the sentences, thus:

Rank of the Accused	Charge	Conviction
Sole Accused	U/s. 302 of I.P.C.	To undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo simple imprisonment for a period of one year.

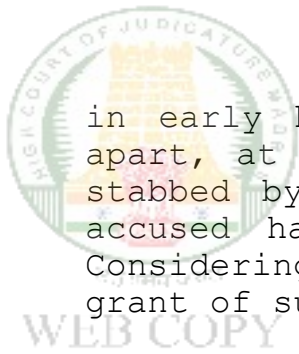
Now, challenging the above said conviction and sentence, the petitioner/sole accused has preferred the appeal. Pending appeal, he seeks suspension of sentence.

3. The case of the prosecution is that the deceased is the wife of the accused and suspecting the fidelity of the deceased, the accused said to have quarreled with the deceased frequently. On 08.01.2012, at 3.00 a.m., while his wife was sleeping in the house, the accused quarreled with her and attacked with the knife in her neck and stomach. Immediately, she was taken to Government Hospital, Srivilliputhur and subsequently, she was referred to Government Rajaji Hosptial, Madurai and after two days, she died on 11.01.2012. P.W.1 is the son of the deceased and the accused and he is the sole eyewitness to the occurrence. The trial Court, considering all these materials, convicted the petitioner as mentioned above. Challenging the same, the present appeal has been filed.

4. Heard Mr.M.Subash Babu, learned counsel appearing for the petitioner/sole accused and Mr.S.Ravi, learned Additional Public Prosecutor and perused the materials available on records.

5. Mr.M.Subash Babu, learned counsel appearing for the petitioner/accused, would submit that the occurrence took place in a wordy quarrel. P.W.1, the son of the deceased, in his evidence clearly stated that through out the night, a quarrel between the deceased and the accused. Due to heat of passion, the accused attacked the deceased with the small kitchen knife available in the scene of occurrence and he has no intention to cause the death of the deceased. That apart, the deceased was alive for two days and thereafter only she succumbed to injuries and the offence under Section 302 of I.P.C. has been made out.

6. Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State opposed the petition submitting that P.W.1 is the son of the accused and the occurrence took place in the accused house,



in early hour and he also eyewitness to the occurrence. That apart, at the time of admission, she told the Doctor that she was stabbed by her husband. From the evidence, it is clear that the accused has an intention to cause the death and attacked her. Considering the gravity of the offence, it is not a fit case for grant of suspension of sentence.

7. The deceased is the wife of the accused and P.W.1 is the son of the accused and the occurrence took place in the house of the accused in the early hours. From the evidence of P.W.1, it could be seen that there is a wordy quarrel between the accused and the deceased through out the night and in the quarrel, out of sudden provocation, and in the heat of passion, the petitioner said to have attacked the deceased with the small knife available in the scene of occurrence and he has no intention to cause the death of the deceased. That apart, the petitioner has no bad antecedent and he is in jail for more than two years.

8. Considering the above facts, we are of the opinion that the petitioner has made out a *prima facie* case for grant of suspension of sentence, 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 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 learned Sessions Judge, (Mahila Fast Track Court), Srivilliputhur, Virudhunagar.

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.

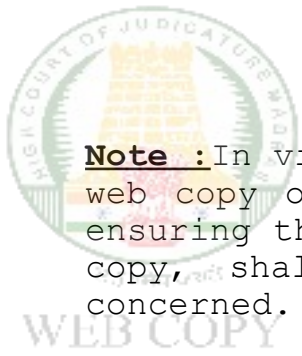
sd/-

04/10/2021

/ TRUE COPY /

/ /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 SESSIONS JUDGE,
(MAHILA FAST TRACK COURT) SRIVILLIPUTTUR,
VIRUDHUNAGAR DISTRICT

2. THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

3. THE INSPECTOR OF POLICE
KRISHNANKOVIL POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1. C.C. to Mr.M.SUBASH BABU, Advocate SR.No.6872

ORDER

IN

CRL MP(MD)No.6022 of 2021

IN

CRL A(MD)No.589 of 2019

Date : 04/10/2021

SA/JM/SAR.2/06.10.2021/4P/6C