



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

Friday, the Twenty Second day of October Two Thousand and
Twenty One
PRESENT

WEB COPY

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice S.ANANTHI

CRL MP(MD) No.7897 of 2021
IN
CRL A(MD)No.245 of 2021

RAMASUNDARAM @ RAMACHANADRAN

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SETHUR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT
CRIME NO.03 OF 2009.

... 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 imposed on the petitioner by the learned Sessions Judge, Fast Track Mahila Court, Srivilliputhur in SC.No.122 of 2009 by the judgment dated 10.05.2016 and enlarge the Petitioner on bail pending disposal of the above Appeal.

PRAYER IN CRL A(MD)No.245 of 2021:

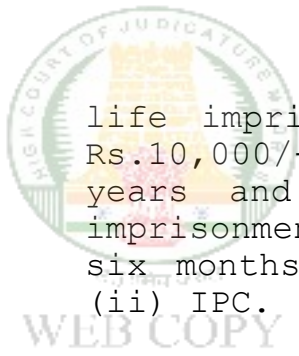
To allow this appeal and set aside the judgment and conviction dated 10.05.2016 passed by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District camp at Srivilliputtur in S.C.No.122 of 2009 and acquit the appellant.

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.K.SUDALAIYANDI, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

O R D E R

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

Totally there are two accused in Sessions Case No.122 of 2009, on the file of the learned Sessions Judge, Fast Track Mahila Court, Srivilliputtur. Pending trial, A2 died and A1 alone faced the trial. A1 stood charged and tried for the offence under Sections 302 and 506(ii) of IPC. The trial Court sentenced him to undergo



life imprisonment under Section 302 IPC., and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for two years and further sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.1000/-, in default, to undergo six months simple imprisonment, for the offence under Section 506 (ii) IPC.

2. Challenging the above said conviction and sentence, the present appeal has been filed. Pending appeal, he sought for suspension of sentence.

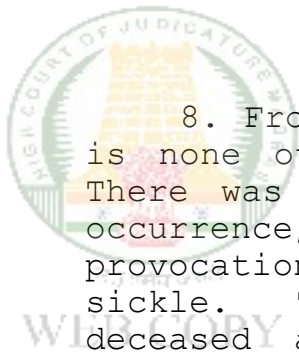
3. The case of the prosecution is that the deceased is the younger brother's wife of the petitioner / appellant and there was a civil dispute between the parties. On 06.01.2009, while the deceased was doing some domestic work in front of her house, A1 attacked the deceased with sickle on her head and thereby, caused her death. A2 said to have caught hold of the deceased. P.W.1 to P.W.3, who are husband, sister and mother-in-law of the deceased, are eyewitness to the occurrence.

4. The trial Court, after considering the materials, convicted and sentenced the petitioner / appellant, as above. Challenging the same, the petitioner / appellant has filed the present appeal, and pending appeal, he seeks suspension of sentence.

5. The learned counsel appearing for the petitioner / appellant would submit that the alleged eyewitnesses are interested witnesses and also chance witnesses and there was no occasion for them to present in the scene of occurrence. The trial Court, believing the interested testimonies of P.W.1 to P.W.3, convicted the petitioner / appellant. That apart, the occurrence had taken place due to wordy quarrel and out of sudden provocation, the accused attacked the deceased with sickly and thereby, caused her death. However, the trial Court had erroneously convicted the petitioner / appellant also under Section 302 IPC., He would further submit that the petitioner is in jail for more than five years.

6. Mr. S. Ravi, the learned Additional Public Prosecutor appearing for the State opposing the bail application would submit that there are three eyewitnesses to the occurrence. The occurrence had taken place in front of the house of the deceased. P.W.1 to P.W.3 are husband, sister and mother-in-law of the deceased, naturally, they were present in the house. That apart, there is a strong motive against the appellant. The trial Court, considering all those circumstances, has rightly convicted the accused and there is no error in the judgment.

7. We have considered the rival submissions made and perused the materials available on records.



8. From the perusal of the records it is seen that the deceased is none other than the younger brother's wife of the appellant. There was a civil dispute between the parties. On the date of occurrence, there was a wordy quarrel between them and due to sudden provocation, the appellant said to have attacked the deceased with sickle. That apart, P.W.1 to P.W.3 are closely related to the deceased and there is no independence witness support their testimony. Considering those circumstances, we find some arguable points available in the appeal. That apart, the appellant is in jail for more than five years.

9. Considering all those circumstances we find that, a prima facie case has been made out for grant of suspension of sentence, during 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) each with two sureties, each for a like-sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Srivilliputtur.

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 they would absent.

sd/-

22/10/2021

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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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
SETHUR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT

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

ORDER

IN

CRL MP(MD) No.7897 of 2021
IN

CRL A(MD)No.245 of 2021

Date :22/10/2021

MPK

SA/SKN/SAR.3/22.10.2021/4P/5C