



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

Friday, the Twenty Ninth day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL MP(MD) No.8104 of 2021
in
Crl.A.(MD)No.413 of 2021

1 DURAIPANDI
2 LAKSHMI

... APPELLANTS/ ACCUSED NO.1 & 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
B-1,VILLAKKUTHON POLICE STATION,
MADURAI.
(IN CRIME NO.846 OF 2010)

... 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 and conviction made in the Judgement in S.C.No.134 of 2012 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai dated.21/9/2021 and enlarge the Petitioners on bail.

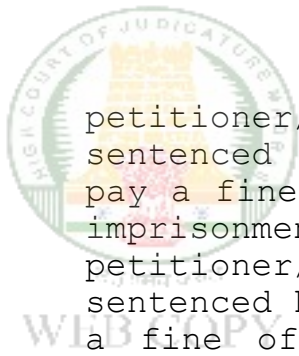
PRAYER IN Crl.A.(MD)No.413 of 2021:

To call for the judgment dated 21.09.2021 made in S.C.No.134 of 2012 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai and set aside the same.

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.N.ANANDAKUMAR, Advocate for the petitioners and of Mr.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor for the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioners by judgment dated 21.09.2021, in S.C.No.134 of 2012, on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai, and to enlarge the petitioners on bail pending disposal of the Criminal Appeal.

2.The petitioners are Accused Nos.1 and 2 in the above referred case. After full-fledged trial, the trial Court found the first



petitioner/A1 guilty under Section 306 I.P.C., convicted and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo six months simple imprisonment. Similarly, the trial Court found the second petitioner/A2 guilty under Section 306 I.P.C., convicted and sentenced her to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment.

3.It is the case of the prosecution that the first petitioner/A1 married the deceased in the year 2001. From the date of inception of the marriage, the first petitioner assaulted the deceased and the second petitioner, who is the sister of the first petitioner, also tortured and abused the deceased by demanding more dowry, due to which, the deceased committed suicide by self-immolation. After full fledged trial, the learned Sessions Judge, Mahalir Neethimandram, Madurai, convicted the petitioners/A1 and A2 as stated supra.

4.Challenging the above said conviction and sentence, the petitioners have filed Crl.A.(MD)No.413 of 2021 along with the instant Miscellaneous Petition, seeking suspension of sentence and bail.

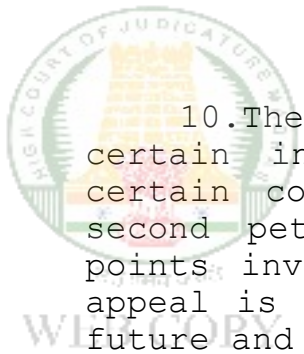
5.Heard Mr.N.Anandkumar, learned counsel appearing for the petitioners and Mr.E.Antony Sahaya Prabahar, Additional Public Prosecutor appearing for the respondent/State.

6.It is submitted by the learned counsel appearing for the petitioners that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and therefore, the learned counsel seeks to enlarge the petitioners on bail.

7.It is submitted by the learned Additional Public Prosecutor that there are enough materials available on record against the first petitioner/A1, as per the evidence adduced by the prosecution, there is no infirmity in the prosecution case. Accordingly, he strongly opposed to grant suspension of sentence to the first petitioner/A1.

8.At this juncture, the learned counsel appearing for the petitioner seeks permission of this Court to withdraw this Criminal Miscellaneous Petition insofar as the first petitioner/A1 is concerned and he has also made an endorsement in the Court bundle to that effect. The said submission is recorded.

9.This Court has carefully considered the rival contentions put forward by the learned counsel appearing on either side and also perused the materials available on record.



10. The learned counsel for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars in favour of the second petitioner/A2. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and in the dying declaration, the deceased herself has stated that she poured kerosene on her body and set fire, and therefore, this Court is of the considered view that the second petitioner/A2 herein is entitled to the relief of suspension of sentence.

10. Accordingly, the relief of suspension of sentence and bail is granted to the second petitioner/A2 on the following conditions:-

(i) The second petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Madurai.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The second petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until further orders and if she is not able to appear before the trial Court on any day, she shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court.

Insofar as the first petitioner/A1 is concerned, this Criminal Miscellaneous Petition is dismissed as not pressed.

sd/-

29/10/2021

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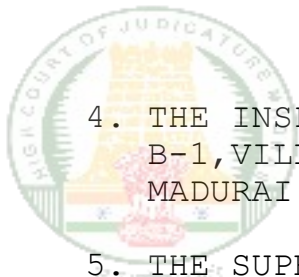
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.

2 THE JUDICIAL MAGISTRATE NO.I,
MADURAI.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.



4. THE INSPECTOR OF POLICE,
B-1, VILLAKKUTHON POLICE STATION,
MADURAI.

5. THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.

6. THE SUPERINTENDENT, CENTRAL PRISON FOR WOMEN,
MADURAI.

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

+1 CC to M/s.N.ANANDAKUMAR, Advocate (SR-7708[I] dated 29/10/2021)

ORDER
IN
CRL MP (MD) No.8104 of 2021
in
Crl.A. (MD) No.413 of 2021
Date : 29/10/2021

smn2

MS/JM/SAR-1/01.11.2021/4P.9C