



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

Tuesday, the Nineteenth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7326 of 2020

IN

CRL A(MD) No.371 of 2020

1 IRULAPPASAMY
2 SUBBULAKSHMI @ SUBBUTHAI
3 SANTHANAMARI

... PETITIONERS/APELLANTS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
KEELARAJAKULARAMAN POLICE STATION,
RAJAPALAYAM TALUK,
VIRUDHUNAGAR DISTRICT.
CRIME NO.120/2017

... 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 passed by the Learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, in S.C.NO.178 of 2017 dated 26/11/2020 and enlarge the petitioners on bail pending disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.371 of 2020:

To allow this appeal and set aside the impugned judgment of conviction and sentence passed by the Learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.NO.178 of 2017 dated 26/11/2020.

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.DILIP KUMAR, Advocate for the petitioner and of MRS.S.BHARATHI, Government Advocate on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Mahalir Neethimandram, Srivilliputhur in S.C.No.178 of 2017 dated 26.11.2020, till the disposal of the appeal.



2.The case against the petitioners is that the first petitioner married one Umayalparvathy on 11.03.2016. The petitioners harassed the deceased demanding dowry and thereby the said Umayalparvathy committed suicide. A case was registered against the petitioners in Crime No.120 of 2017 under Sections 498A and 304B of IPC and the same was taken on file as S.C.No.25 of 2017. The learned Judge found the petitioners guilty under Sections 498A and 304B of IPC and sentenced them to undergo three years rigorous imprisonment each and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) each in default to undergo three months simple imprisonment each under Section 498A of IPC and the petitioners were sentenced to undergo seven years rigorous imprisonment under Section 304B of IPC each. Against the conviction and sentence imposed by the trial Court, the petitioners have filed an appeal in Crl.A.(MD)No.371 of 2020. Along with appeal, the petitioners filed this petition for suspension of sentence till the disposal of the appeal.

3.On the side of the petitioners, it is stated that the first petitioner worked in BHEL, Trichirappalli. The deceased has committed suicide at her mother's house. The deceased was residing at her mother's house for delivery. After marriage, the husband and wife were residing at Trichy. The petitioners 2 and 3 lived at Mamsapuram. There was a delay in filing the FIR. The victim was taken to Krishna hospital and then was taken to Rajapalayam Government Hospital. There is contradiction between the evidence of P.W.1 and P.W.2. P.W.1 has stated that the petitioners demanded dowry even to see the new born child. Whereas P.W.2 has deposed that the petitioner visited the child at the hospital and they invited the deceased to return back to their home. The mother of the victim is not interested to send the deceased to Mamsapuram. She insists the victim to go straight to Trichy. There was quarrel between the mother of the victim and victim. The Investigating Officer failed to examine the driver of the auto, who took the victim to the Krishna Hospital. There is suspicion regarding the time of death of deceased. P.W.11 has deposed that P.W.2 attempt to commit suicide to avoid her son from marrying a girl of his choice. The petitioners are in custody for the past 54 days. A2 is an aged lady and A3 is having two children to take care of. There is likelihood of the first petitioner to loss his job, since he is in custody and prayed the sentence imposed upon the petitioners to be suspended.

4.On the side of the prosecution, it is stated that the prosecution has examined 20 witnesses and marked 10 documents and one material object. The postmortem certificate was marked as Ex.P5. The Inquest report was marked as Ex.P7 and the toxicology report was marked as Ex.P10 and P.W.1 has clearly deposed and supports the case of prosecution. The evidence of P.W.16, Doctor corroborated the evidence of P.W.1. The prosecution has proved the case beyond reasonable doubts and the trial Court has rightly convicted the



There is evidence regarding the demand of dowry and regarding the harassment done by the petitioners. P.W.2 has deposed that the petitioners 2 and 3 strangled the neck of the victim demanding dowry and thereby, the presumption of dowry demand is proved and prayed the petition to be dismissed.

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5. Since there is no sufficient reason to grant suspension of sentence to the first petitioner, this petition is dismissed as against the first petitioner.

6. It is seen that the second petitioner is a lady aged about 58 years and the third petitioner is having two school going children who are to be taken care of by her. Leniency has to be shown to the petitioners 2 and 3 on humanitarian grounds. Accordingly, the substantive sentence of imprisonment against the petitioners 2 and 3 alone is suspended and the petitioners 2 and 3 are ordered to be released on bail on the following conditions:

(i) The petitioners 2 and 3 are directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District, Srivilliputhur

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iii) the petitioners shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal or until further orders.

sd/-
19/01/2021

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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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

<https://hcservices.mca.gov.in/>



2 THE INSPECTOR OF POLICE,
KEELARAJAKULARAMAN POLICE STATION,
RAJAPALAYAM TALUK,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4 THE OFFICER INCHARGE,
WOMEN PRISON, MADURAI.

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

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-324[I] dated 20/01/2021)

ORDER
IN
CRL MP (MD) No.7326 of 2020
IN
CRL A (MD) No.371 of 2020
Date :19/01/2021

MRN
JM/VR/SAR III/21.01.2021/4P/7C