



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

Monday, the Twenty Second day of November Two Thousand and  
Twenty One

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PRESENT

**The Hon`ble Mr.Justice S.VAIDYANATHAN**  
**and**  
**The Hon`ble Dr.Justice G.JAYACHANDRAN**

CRL MP(MD) No.8633 of 2021  
in  
Crl.A(MD).No.326 of 2020

ARUNACHALAM

... PETITIONER/ APPELLANT

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE  
ERWADI DARGAH POLICE STATION,  
RAMANATHAPURAM DISTRICT.  
CRIME NO.97/2012

... 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 by the Fast Track Mahila Court, Ramanathapuram in S.C.No.112/2014 on 04/01/2020 and release the petitioner on bail pending disposal of the Criminal Appeal.

**PRAYER IN Crl.A(MD).No.326 of 2020:**

To set aside the conviction and sentence imposed by the Fast Track Mahila Court, Ramanathapuram in S.C.No.112 of 2014 on 04.01.2020 as against the Appellant/ Accused No.1 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.JOTHI BASU, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The appeal is preferred by the first accused, who was found guilty for the offence under Sections 120(b), 449, 451, 380 (3 counts) and 302 r/w 34 IPC.

2.Out of six accused, in the case of murder for gain, A4 to A6 were found not guilty and acquitted by the trial Court. Insofar as

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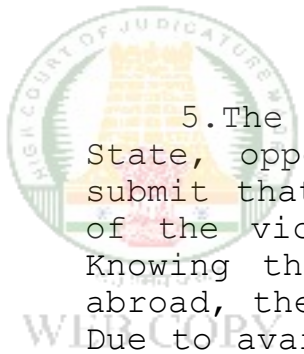


the appellant/petitioner herein, who is arrayed as A1, the trial Court convicted and sentenced him for the following offences.

| SL.N<br>o. | Accused<br>Rank | Charges for the<br>offences | Conviction                | Sentence                                                                                                          |
|------------|-----------------|-----------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------------|
| 1.         | A1              | u/s.120 (b) IPC             | u/s.120 (b) IPC           | 2 years R.I.                                                                                                      |
| 2.         | A1              | u/s. 449 IPC                | u/s.449 IPC               | 10 years R.I and to pay a fine of Rs.1000/-, in default, to undergo 3 months R.I.                                 |
| 3.         | A1              | u/s.451 IPC                 | u/s.451 IPC               | 7 years R.I and to pay a fine of Rs.1000/-, in default, to undergo 3 months R.I.                                  |
| 4.         | A1              | u/s.380 IPC<br>( 3 counts)  | u/s.380 IPC<br>(3 counts) | 7 years R.I and to pay a fine of Rs.1000/- (for each count), in default, to undergo 3 months R.I (for each count) |
| 5.         | A1              | u/s.302 r/w<br>34 IPC       | u/s.302 r/w<br>34 IPC     | Life Imprisonment and to pay a fine of Rs.2000/-, in default, to undergo 6 months R.I.                            |

3.Challenging the above conviction and sentence, the appellant/petitioner herein has preferred this appeal. Pending appeal, he has come forward with this application for suspension of sentence.

4.The learned counsel for the petitioner/appellant/A1 would submit that after four days of burial of an old lady, aged about 75 years, on suspicion, the body was exhumed. Primarily relying upon the confession statement of the appellant/petitioner herein to the Village Administrative Officer(in-charge) of that village, a case has been registered by the respondent against the petitioner/appellant/A1 and 5 others. The trial Court erred in convicting the appellant on surmises without any direct or circumstantial evidence. The learned counsel for the petitioner/appellant/A1 would further submit that the prosecution failed to prove the voluntariness of the confession statement as well as the recovery, particularly, the bangles, which were brand-new not identified by any of the witnesses. However, the trial Court held the appellant guilty. Hence, he has good chance of succeeding in the appeal. Therefore, the sentence may be suspended.



5.The learned Additional Public Prosecutor appearing for the State, opposing the application for suspension of sentence, would submit that the accused along with others were occupying the house of the victim as tenants and running "Ornamental Fish Business". Knowing that the victim is staying alone and her son is working abroad, they had committed theft of her jewels on previous occasion. Due to avariciousness, they conspired to murder the victim and loot her jewels kept in the almirah. Accordingly, they scaled the wall of the victims house at the night and smothered the victim lady and thereafter, removed the key kept under the pillow of the victim, opened the almirah and removed the valuables. Four days after the occurrence, the petitioner/appellant/A1 had voluntarily confessed to PW.1, who is the Village Administrative Officer of Erwadi village and surrendered the bangles stolen from the victim. Thereafter, based on his confession statement, other accused were arrested and from their confession statement, particularly, A2 and A3, other valuables of the victim lady were recovered. It is a case of conspiracy and an act of murder for gain, wherein the trial Court has held A1 to A3 guilty based on the material objects and deposition of witnesses.

6.On considering the rival submissions and the material papers placed, this Court is of the view that it is not a fit case to grant suspension of sentence. If the appellant/petitioner is granted suspension of sentence, he may delay the disposal of the appeal. Hence, this petition for suspension of sentence is dismissed. The observations made in this order shall not in any way taken prejudicial to the appellant while considering the appeal.

7.The typeset of papers is ready. So, the Registry is directed to list the appeal during the third week of December, 2021, for final hearing.

sd/-  
22/11/2021

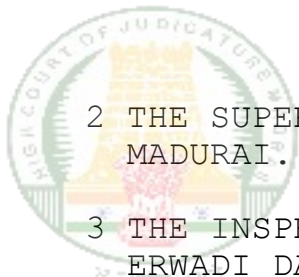
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/ /2021  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

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 JUDGE,  
FAST TRACK MAHILA COURT,  
RAMANATHAPURAM.



2 THE SUPERINTENDENT, CENTRAL PRISON,  
MADURAI.

3 THE INSPECTOR OF POLICE  
ERWADI DARGAH POLICE STATION,  
RAMANATHAPURAM DISTRICT.

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

ORDER

IN

CRL MP(MD) No.8633 of 2021 in  
Crl.A(MD).No.326 of 2020

Date :22/11/2021

PJL

MS/PN/SAR-2/25.11.2021/4P.5C