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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM

THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.M.P.No.296 of 2022

in

Crl.A.No.26 of 2022

1. Vinoth Kumar
2. Pazhani
3. Rajeshwari
4. Vithiya

.. Petitioners/accused 1 to 4

Vs.

State through its
The Deputy Superintendent of Police,
Panruti Sub-Division,
Panruti Police Station,
Cuddalore District.
(Crime No.436 of 2018)

.. Respondent/Complainant

Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C. to suspend the sentence passed in S.C.No.252 of 2019 dated 29.12.2021, on the file of the learned Sessions Judge, Mahila Court, Cuddalore.

For Petitioners : Mr.A.R.L.Sundaresan,
Sr.Advocate.
For Mr.A.M.Rahamath Ali

For Respondent : Mr.Leonard Arul Joseph Sevam
Government Advocate (Crl.Side)

O R D E R

This criminal miscellaneous petition has been preferred by the accused seeking to suspend the sentence imposed upon them, by judgment and order dated 29.12.2021 passed in S.C.No.252 of 2019 on the file of the learned Sessions Judge, Mahila Court, Cuddalore, and to enlarge them on bail, pending disposal of the appeal.



2. The petitioners, who are accused Nos.1 to 4, in S.C.No.252 of 2019 on the file of the learned Sessions Judge, Mahila Court, Cuddalore, by judgment dated 29.12.2021, were convicted and sentenced as follows:

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Accused	Offence under Section	Sentence
A1	498-A IPC 304-B IPC	undergo simple imprisonment for two years and six months and to pay a fine of Rs.10,000/- and in default, to undergo simple imprisonment for three months. undergo simple imprisonment for ten years.
A2 & A3	498-A IPC 304-B IPC	Each of them to undergo simple imprisonment for two years and six months and to pay a fine of Rs.10,000/- each and in default, each of them to undergo simple imprisonment for three months. Each of them to undergo simple imprisonment for seven years
A4	498-A IPC 304-B	undergo simple imprisonment for two years and six months and to pay a fine of Rs.10,000/- and in default, to undergo simple imprisonment for three months. Acquitted of the charge.

3. Challenging the above conviction and sentences, the petitioners/accused have filed CrI.A.No.26 of 2022 along with the instant miscellaneous petition, seeking suspension of sentence and bail.

4. The case of the prosecution is that on 30.01.2017, the marriage between the 1st petitioner/A1 and the deceased Surya, was solemnized at Panruti. At that time, the family of the deceased gave 20 sovereigns of gold jewels and Rs.2.5 Lakhs worth of household articles, and also a motor-cycle as stridhana and during the Tamil month of Aadi, they gave four sovereigns of gold thali chain to Surya. Further, after six months from the date of marriage, the 4th petitioner herein/A4, who was residing along with her husband in Chennai came to Panruti and started constructing a house in a plot and for that expenses, the petitioners/A1 to A3, pledged five sovereigns of gold jewels of Surya and in this regard, when Surya questioned them, petitioners/A1 to A3 scolded her in obscene language. Later,



due to the development of misunderstanding, the deceased left the matrimonial home and returned back. In this occasion, the petitioners/accused 2 and 3 and the husband of the deceased Surya [1st petitioner/A1], scolded her in an inappropriate language that she is infertile. Further, they demanded more dowry and committed cruelty towards the deceased. Unable to bear the attitude committed by the petitioners/accused, the deceased committed suicide by hanging, whereby the petitioners and other accused in this case have committed the offence punishable under Sections 498-A and 304-B IPC.

5. The learned senior counsel appearing for the petitioners would submit that as regard 1st petitioner/A1, he would not press the petition for suspension of sentence. As regards, petitioners 2 to 4, learned senior counsel appearing for the petitioners submitted that they are no way connected with this case and are falsely implicated in this case. He would further submit that the entire case of the prosecution rests upon the witnesses, who are the relatives of the deceased and the evidence given by the prosecution witnesses are having lot of contradictions in respect to alleged cruelty committed by the petitioners. Further, the petitioners 2 and 3 are in incarceration from 29.12.2021 and they are aged 50 and 45 years, respectively and having the duty to maintain their family. Further, all the petitioners are in bail, during the time of trial and the sentence imposed upon the 4th petitioner/A4, was suspended by the trial Court till 27.01.2022. Accordingly, he prayed to suspend the sentence of imprisonment imposed upon petitioners 2 to 4 and to enlarge them on bail.

6. Per contra, Mr. Leonard Arul Joseph Selvam, the learned Government Advocate (Crl. Side) appearing for the State submitted that conviction has been rendered placing reliance upon the witnesses, who have heard the news through the deceased. The evidence given by the prosecution witnesses, are all sufficient to accept the case of the prosecution in entirety. Accordingly, he prayed for dismissal of this petition.

7. The submissions made by the learned counsel appearing on either side are considered. Admittedly, no suicide note has been recovered during the time of investigation. The evidence given by PW1 to PW3, are all the information supplied by the deceased and therefore, the evidence given by PW1 to PW3, needs a detailed appraisal. Since the witnesses examined on the side of the prosecution are all related to each other, the evidence given by them needs a close scrutiny.

8. Thus, considering the above aspects, especially the period of incarceration and also as the appeal is not likely to be taken up in the near future, this Court is of the view that the petitioners 2 to 4/accused are entitled to the relief of suspension of sentence and bail.



9. Accordingly, this petition in respect of the 1st petitioner/A1 is dismissed as not pressed and the sentence of imprisonment alone, imposed upon petitioners 2 to 4, is suspended and bail is granted to the petitioners 2 to 4, till the disposal of the criminal appeal, on the following conditions:

- (i) The petitioners 2 to 4 shall execute a bond for a sum of Rs.25,000/-, each with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Panruti.
- (ii) The petitioners 2 to 4/accused and the sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity; and
- (iii) The petitioners 2 to 4 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 and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

11. With the above directions, this Criminal Miscellaneous Petition is ordered.

-sd/-

10/03/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, CUDDALORE.

2 THE JUDICIAL MAGISTRATE,
NO.1, PANRUTI.

3 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DISTRICT. [FOR INFORMATION]



4 THE DEPUTY SUPERINTENDENT OF POLICE,
PANRUTI SUB DIVISION,
IN PANRUTI POLICE STATION,
CUDDALORE DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE OFFICER INCHARGE,
SUB JAIL, PANRUTI.

7 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

8 THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
VELLORE.

+1 C.C. to M/S.A.M.RAHAMATH ALI Advocate on payment of necessary
charges SR.NO. 3725

Order

in
CRL MP.296/2022
IN
CRL A.26/2022

Date :10/03/2022

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RW 11/03/2022