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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Crl.M.P.No.568 of 2022

in

Crl.A.No.36 of 2022

1.Sathish
2.Parvathammal
3.Kirshnappa
4.Rathinammal
5.Arunkumar

... petitioners/Appellants

Vs.

The State rep. by
The Inspector of Police,
Shoolagiri Police Station,
Kirshnagiri District
(crime No.425 of 2016)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389 (1) of Cr.P.C to suspend the sentence of imprisonment imposed by the learned Sessions Judge (Fast Track Mahila Court) Krishnagiri District in SC.No.95 of 2019 dated 28.12.2021 and enlarge the petitioners on bail pending disposal of Crl.A.No.36 of 2022.

For Petitioners : Mr.P.Muthamizhselvakumar

For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate (crl.side)

O R D E R

This Criminal Miscellaneous Petition has been filed by the petitioners/ accused 1 to 5 seeking suspension of sentence of imprisonment imposed by the learned Sessions Judge (Fast Track Mahila Court) Krishnagiri District in SC.No.95 of 2019 dated 28.12.2021 and enlarge the petitioners on bail pending disposal of Crl.A.No.36 of 2022.

2. The petitioners / appellants herein are the accused in SC.No.95 of 2019 on the file of the learned Sessions Judge (Fast Track Mahila Court) Krishnagiri District. They were found guilty of the offence under Sections 498(A), 304(B) r/w 109 of IPC and they have been convicted and sentenced as under:



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S.No.	Conviction	Sentence
1	A1 to A3 Section 498(A) of IPC 304 (B) IPC	2 years of rigorous imprisonment and Rs.3,000/- fine amount. Default the fine amount of 6 month rigorous imprisonment Imprisonment of 10 years rigorous imprisonment
2	A4 and A5 304(B) r/w 109 of IPC	10 years rigorous imprisonment

Challenging the same, the petitioners have filed the present criminal appeal.

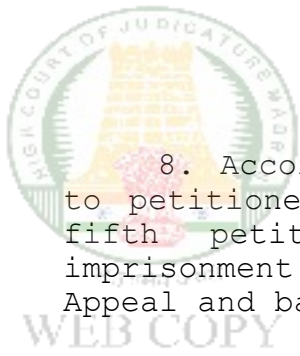
3. Today when the petition is taken up for hearing, the learned counsel appearing for the petitioners submitted that he is not pressing this petition as regards to petitioners 1 to 4. His submission is recorded.

4. In respect of the fifth petitioner, the learned counsel for the petitioners would submit that the evidence given by the prosecution witness, is not in the form of connecting the fifth petitioner with the alleged occurrence. Only by the reason that he is having business activity with the first accused before the occurrence, he demanded the first petitioner to pay Rs.10,00,000/-. Except the said overtact, the fifth petitioner is not having any role in the alleged occurrence.

5. In this regard, the learned Government Advocate (Criminal Side) appearing for the respondent/State conceded that none of the witnesses examined on the side of the prosecution has stated about the alleged role played by the fifth petitioner. However, according to him, interference of this Court is not necessary in the findings arrived at by the trial Court in respect to the petitioners 1 to 4.

6. Heard the learned counsel appearing on either side and also perused the materials placed on record.

7. Considering the facts and circumstances of the case, also considering the submissions of the learned counsel for the petitioners and the learned Government Advocate (crl.side) appearing for the respondent police, further this appeal is not likely to be taken for final hearing in the near future, this Court is of the view that the substantive sentence of imprisonment alone in respect of the fifth petitioner can be suspended on certain conditions.



8. Accordingly, this criminal miscellaneous petition in respect to petitioners 1 to 4 is dismissed as not pressed. As far as the fifth petitioner is concerned, the substantive sentence of imprisonment alone is suspended, till the disposal of the Criminal Appeal and bail is granted on the following conditions:

(a) The fifth petitioner is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge (Fast Track Mahila Court) Krishnagiri District.

(b) The fifth petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The fifth petitioner 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 criminal appeal and if he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

9. With the above directions, this Criminal Miscellaneous Petition is ordered in respect to the fifth petitioner alone.

-sd/-

08/03/2022

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 (FAST TRACK
MAHILA COURT), KRISHNAGIRI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 INSPECTOR OF POLICE,
SHOOLAGIRI POLICE STATION,
KRISHNAGIRI DISTRICT



4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL WOMENS PRISON,
COIMBATORE.

C.C. to M/S P.MUTHAMIZHSELVAKUMAR Advocate on payment of
necessary charges Sr.3568

Order
in
CRL MP.568/2022
in
CRL A.36/2022

Date :08/03/2022

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RVR 10/03/2022