



WEB COPY



Crl.M.P.No.5971 of 2022 in Crl.A.No.26 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25..07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.5971 of 2022

in

Crl.A.No.26 of 2022

Vinoth Kumar, aged 37,
Son of Pazhani

... Petitioner /A1

-Versus-

State Rep. By
The Deputy Superintendent of Police,
Panruti Sub Division,
In Panruti Police Station,
Crime NO.436 of 2018
Cuddalore District.

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of the Code of Criminal Procedure praying to suspend the substantive sentence of simple imprisonment for two years and six months for offence under Section 498-A of IPC and simple imprisonment for 10 years for offence under Section 304-B of IPC imposed on the petitioner byt he learned Sessions Judge, Mahila Court, Cuddalore, by judgment dated 29.12.20221 in S.C.No.252 of 2019.

For Petitioner

: Mr.A.M.Rahamath Ali

For Respondent

: Mr.S.Vinoth Kumar,

Government Advocate (Crl. Side)



Crl.M.P.No.5971 of 2022 in Crl.A.No.26 of 2022

ORDER

This Criminal Miscellaneous Petition is filed seeking to suspend the substantive sentence of simple imprisonment for two years and six months for offence under Section 498-A of IPC and simple imprisonment for 10 years for offence under Section 304-B of IPC imposed on the petitioner by the learned Sessions Judge, Mahila Court, Cuddalore, by judgment dated 29.12.2022 in S.C.No.252 of 2019.

2. Heard both sides.

3. The petitioner was convicted by the trial court for offences under Sections 498-A and 304-B of IPC and sentenced to undergo simple imprisonment for a period of 2 years and 6 months and to pay a fine of Rs.10,000/- for offence under Section 498-A of IPC in default to suffer simple imprisonment for a further period of three months and to undergo simple imprisonment for a period of 10 years for offence under Section 304-B of IPC which was confirmed by the appellate court.

4. The learned counsel for the petitioner taking this court through



Crl.M.P.No.5971 of 2022 in Crl.A.No.26 of 2022

the evidence of the investigating officer would submit that all the allegations relating to the demand of dowry were not specifically made in the complaint as well as the earliest statement and were only embellishment based on which the petitioner was convicted. He would further submit that the petitioner is now in prison from 29.12.2021 for almost 8 months and therefore, he prays for suspension of sentence.

5. Per contra, the learned Government Advocate (Criminal Side) would submit that the prosecution has clearly and categorically proved that the proximate cause for the suicide of the victim is the dowry demand and the same had happened within a period of 7 years from the date of marriage and therefore, presumption under Section 113-B of The Evidence Act also comes into play. Therefore, the trial court was absolutely right in convicting and sentencing the appellant for the offences stated above.

6. I have considered the rival submissions made on either side and also perused the materials in this case.



Crl.M.P.No.5971 of 2022 in Crl.A.No.26 of 2022

WEB COPY

7. Considering the grounds raised in the appeal for the purpose of prima facie case and considering the fact that the petitioner is in prison from 29.12.2021 and it may take while for this court to take up the main appeal for final hearing, I am of the view that it is a fit case for the grant of suspension of sentence and for the release of the petitioner on bail pending disposal of the criminal appeal on the following conditions:-

(a) the 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 Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(c) the petitioner shall appear before the Trial Court on the first



Crl.M.P.No.5971 of 2022 in Crl.A.No.26 of 2022

working day of every English Calendar Month at 10.30 A.M until the disposal of the Criminal Appeal and if he not able to appear before the Trial Court on any day, he 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 his absence, as directed by the Trial Court.

This Criminal Miscellaneous Petition is ordered accordingly.

25..07..2022

Index : yes/no

Speaking order/Non-speaking order

kmk

To

- 1.The Sessions Judge, Mahila Court, Cuddalore, Cuddalore District.
- 2.The Judicial Magistrate-I, Panruti, Cuddalore District.
- 3.The Deputy Superintendent of Police, Panruti Sub Division, Cuddalore District.
- 4.The Superintendent of Central Prison, Cuddalore.
- 5.The Public Prosecutor, High Court, Madras.



WEB COPY



Crl.M.P.No.5971 of 2022 in Crl.A.No.26 of 2022

D.BHARATHA CHAKRAVARTHY. J.,

kmk

Crl.M.P.No.5971 of 2022
in
CrlA.No.26 of 2022

25..07..2022