



Crl.M.P.No.8339 of 2022 in Crl.A.No.394 of 2021

Orders Reserved on : 13..09..2022

Orders Pronounced on : 18..10..2022

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Crl.M.P.No.8339 of 2022 in Crl.A.No.394 of 2021

P.N.PRAKASH.J.,

AND

RMT.TEEKAA RAMAN.J.,

ORDER

P.N.PRAKASH, J.

This criminal miscellaneous petition has been filed seeking to suspend the substantive sentence imposed on the petitioner by judgement and order dated 17.03.2021 in S.C.No.13 of 2013 on the file of the learned IV Additional Judge, City Civil Court, Chennai, and to enlarge the petitioner on bail pending disposal of the appeal.

2. This is second bail petition and the earlier bail petition in Crl.M.P.No.11175 of 2021 was dismissed as withdrawn on 09.12.2021.

3. The petitioner, who was the sole accused in S.C.No.13 of 2013, was convicted and sentenced as follows on 17.03.2021:-

<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Muthaiyan (Sole Accused)	Section 307 of IPC	Imprisonment for Life and to pay a fine of Rs.25,000/- in default of payment of fine, to undergo simple imprisonment for a further period of 1 year
	Section 341 of IPC	Simple Imprisonment for 1 month and to



<i>Accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
		pay a fine of Rs.500/- in default of payment of fine, to undergo simple imprisonment for a further period of 1 week
	The aforesaid sentences were ordered to run concurrently.	

4. Challenging the above conviction and sentences, the petitioner has preferred Crl.A.No.394 of 2021 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

5. Heard Mr.S.Manoharan, learned counsel for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

6. The case of the prosecution has been captured in para 3 of the trial court judgement, which is as under:-

On 15.11.2022 at about 05.15 p.m. when the de facto complainant Jeyanthi, after finishing her duty, was returning home in Greams Road opposite to MAA Agencies Corporate Palace, the accused Muthaiyan, with an intention to murder Jeyanthi, cut and stab Jeyanthi with knife on her left chest, right neck, back side of the left hand, right upper arm and when she ran to



escape, the accused stabbed her with knife on her back and shoulder and when she fell down, the accused cut Jeyanthi with knife on her right thigh due to the motive that Jeyanthi had neglected the accused after having relationship with the accused and live like husband and wife and on suspicion that Jeyanthi had an illegal relationship with one Poobalan. After giving treatment Jeyanthi's life was saved. Hence, the accused was charged for the offences under Section 341, 294(b) and 307 of IPC.

7. Mr.S.Manoharan, learned counsel for the petitioner reiterated the grounds raised in the memorandum of appeal and submitted that the petitioner is incarceration from 17.03.2021. When the petitioner was questioned by the trial court on the sentences which were proposed to be imposed on him, he has stated that he has 3 children of young age and the 3rd child is having kidney problem.

8. In this case, the evidence of Jeyanthi (P.W.1) has been sufficiently corroborated the medical evidence. She was under intensive treatment for 8 days and on account of medical intervention, her life has been saved. Several surgeries have been performed on her as could be seen from the evidence of Dr.Illayakumar (P.W.10). The evidence of Dr.Ameethkumar (P.W.9) shows



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that she had suffered the following injuries :-

“..... a cut injury on the right neck and left shoulder and left fore arm and there was over bleeding from the injury and her left fore arm was found swelling due to cut in the blood veins and her blood pressure was low and small cut injuries were found on her left chest stomach backside on various sizes and a deep cut injury was found on the right knee and all the wounds were sutured and there was over bleeding from the cut injury in the left fore arm.”

9. The petitioner was already a married man with children. We do not know why he had to stalk Jeyanthi (P.W.1). The occurrence was on 15.11.2012 and if the petitioner had got married thereafter, and got children through that marriage, that cannot be a mitigating factor to grant suspension of sentence and bail. The fact remains that the victim in this case is a helpless woman.

10. The learned counsel for the petitioner contended that the victim has also got married. In our opinion, that cannot also be a good reason to grant suspension of sentence and bail in a case of this nature.

11. It is also seen from the records that during trial, the petitioner had adopted dilatory tactics by not cross examining the witnesses and thereafter



recalling them at his own whims and fancies. In fact, during trial, he was absconding and non bailable warrant was issued against him. Therefore, if suspension of sentence and bail is granted, he may abscond.

12. At this juncture, pertinent it is to point out that the Supreme Court, in **Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi)**¹, has considered **Kashmira Singh v. State of Punjab**² and has held as follows:

“30. . . . In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as observed in Vijay Kumar [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195 : JT 2002 Supp (1) SC 60] that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice in such cases is

¹ (2008) 5 SCC 230

² 1977 SCC (Cri) 559



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not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted.”

13. Therefore, we are of the opinion, that it is not a fit case for the grant of suspension of sentence and bail to the petitioner. Accordingly, this criminal miscellaneous petition is dismissed. Whatever is stated above is only for deciding this petition.

[P.N.P., J]

[T.K.R., J]

18..10..2022

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To

- 1.The IV Additional Sessions Judge, City Civil Court, Chennai.
- 2.The Inspector of Police, F-4, Thousand Light Police Station, Chennai.
- 3.The Public Prosecutor, Madras High Court, Chennai – 600 104.



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