



Crl.M.P.No.10205 of 2022 in Crl.A.No.663 of 2021

Orders Reserved on : 22..09..2022
Orders Pronounced on : 14..10..2022

Crl.M.P.No.10205 of 2022
in
Crl.A.No.663 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 sentence imposed on the petitioner by judgement and order dated 26.08.2021 passed in S.C.No.43 of 2016 on the file of the learned III Additional District and Sessions Judge, Coimbatore, and to enlarge the petitioner on bail pending disposal of the appeal.

2. This is a second bail petition and the earlier bail petition in Crl.M.P.No.13531 of 2021 was dismissed as withdrawn on 17.12.2021.



3. The petitioner, who is the sole accused, has been convicted by the trial court for the offence under Section 302 of IPC and sentenced thereof to undergo imprisonment for life and to pay a fine of Rs.2,000/- in default of payment of fine to undergo simple imprisonment for a period of six months. Challenging the above conviction and sentence, the petitioner has preferred an appeal in Crl.A.No.663 of 202 which is pending for final hearing.

4. Heard Mr.P.Saravanan, learned counsel for the petitioner/sole accused and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that that the accused was having an affair with the deceased. But, when the deceased started insisting upon the accused to live with him, it was not agreed by him and, he started harassing the deceased, on account of which, there were several complaints given by the deceased against the accused to the police. While so, it is alleged that the accused took the deceased at 07.00 p.m. on 26.10.2015 in his two-wheeler to a secluded place and strangled her to death. The prosecution case is based on the extra-judicial confession of the accused given to the Village Administrative Officer (P.W.9) and also the evidence of P.W.5, who had seen the deceased and the accused together near and around



the place of occurrence just before the occurrence.

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6. The learned counsel for the petitioner argued that P.W.1 has stated that she saw the accused in the police station and, therefore, the extra-judicial confession is vitiated. He also contended that the inquest report would also stand vitiated on account of this fact.

7. Per contra, Mr.R.Muniyapparaj, learned Additional Public Prosecutor, submitted that apart from the present case, there are four other cases against the petitioner viz, Perur Police Station Crime Nos.141 of 2012, 274 of 2012, 130 of 2013 and 102 of 2015.

8. This court gave its anxious consideration to the rival submissions.

9. In this case, the motive for the murder has been clearly established from the evidence of P.W.1 and the evidence of P.W.5 with regard to seeing the accused with the deceased in and around the place of occurrence just before the occurrence. The learned counsel for the petitioner contended that the aforesaid criminal cases were essentially the cases between the accused and the deceased. Even if it is so, this only further strengthened the motive for the offence.

10. At this juncture, pertinent it is to point out that the Supreme Court, in



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

11. Therefore, we are of the opinion, that it is not a fit case for the grant of

1 (2008) 5 SCC 230

2 1977 SCC (Cri) 559



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suspension of sentence and bail to the petitioners. Accordingly, this criminal miscellaneous petition is dismissed. Whatever is stated above is only for deciding this petition.

[P.N.P., J] [TKR,J.]
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