



Crl.M.P.No.10356 of 2022
in Crl.A.No.770 of 2022

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RESERVED ON : 12.09.2022

PRONOUNCED ON : 26.09.2022

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 judgment and order dated 04.04.2022 passed in S.C.No.222 of 2018 on the file of the Sessions Court, Mahalir Neethimandram, Allikulam, Chennai and to enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner faced a prosecution in S.C.No.222 of 2018 before the Sessions Court, Mahalir Neethimandram, Allikulam, Chennai, in which, he was convicted and sentenced as under on 04.04.2022:



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<i>Provision under which convicted</i>	<i>Sentence</i>
Section 341 IPC	One month rigorous imprisonment and fine of Rs.500/-, in default to undergo one week simple imprisonment.
Section 307 IPC	Life imprisonment and fine of Rs.10,000/-, in default to undergo three months simple imprisonment.
The aforesaid sentences were ordered to run concurrently.	

3. Challenging the aforesaid conviction and sentences, the petitioner has filed Crl.A.No.770 of 2022 along with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

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

5. It is the case of the prosecution that the petitioner was in love with the victim Sivaranjani and when she refused to accept his proposal, he accosted her around 8.15 p.m. on 27.10.2016 near the office of the Election



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Commission at 100 Feet Road in Koyambedu and indiscriminately attacked her with a knife (M.O.1). Fortunately, Sivaranjani survived and therefore, the petitioner was convicted under Section 307 IPC, but, sentenced to undergo life imprisonment.

6. The learned counsel for the petitioner submitted that Sivaranjani was examined as PW7 and she stated in her evidence that she gave a complaint and the same has not been brought on record by the police, which casts a doubt on the prosecution case. He also stated that Sivaranjani (PW7) was admitted in hospital for treatment, but, she left the hospital on the next day without taking complete treatment. He further submitted that there is discrepancy in the arrest of the petitioner and the failure of the police to obtain CCTV footages from that area is fatal to the prosecution case.

7. *Per contra*, the learned Additional Public Prosecutor refuted the aforesaid submissions made by the learned counsel for the petitioner.



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

9. On a cursory reading of the evidence of Sivaranjani (PW7) and the findings of the trial Court, we are able to see that the evidence of Sivaranjani (PW7) has been corroborated by the evidence of Dr.Arun (PW6), who gave treatment to Sivaranjani in Kilpauk Medical College and Hospital immediately after the incident.

10. Sivaranjani (PW7), in her evidence, has stated that the petitioner inflicted injuries on her face, neck and hands and when the petitioner attempted to stab on her stomach, it missed the mark; the local people passersby viz., two auto drivers Balaji (PW1) and Pazhani (PW2) came to her rescue and arranged an ambulance to take her to the hospital.

11. The lapses in the investigation that have been adverted to by the learned counsel for the petitioner are not so serious so as to discredit the evidence of Sivaranjani (PW7). Sivaranjani (PW7) was lucky enough in not losing her life.



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

1 (2008) 5 SCC 230

2 1977 SCC (Cri) 559



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In view of the above reasoning and taking into consideration the serious nature of allegations against the petitioner, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed. The offences against women should have to be viewed very seriously. Whatever is stated above is only for deciding this criminal miscellaneous petition and all the grounds that have been raised by the petitioner are left open to be canvassed during final disposal of the case.

(P.N.P.,J.) (T.K.R.,J.)
26.09.2022

nsd



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To

- 1.The Sessions Judge,
Mahalir Neethimandram,
Allikulam, Chennai.
- 2.The Inspector of Police,
K-11, CMPT Police Station,
Koyambedu, Chennai – 600 107.
- 3.The Superintendent of Prison,
Central Prison, Puzhal, Chennai.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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