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Crl.M.P.No.11146 of 2022 in Crl.A.No.830 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2022

CORAM

THE HONOURABLE MR.JUSTICE **P.VELMURUGAN**

Crl.M.P.No.11146 of 2022 in
Crl.A.No.830 of 2022

1.Kumaravel

2.Malarkodi

... Petitioners

Vs.

The Assistant Commissioner of Police,
Teynampet Range,
Teynampet,
Chennai – 600 006.
Crime No.225 of 2013

... Respondent

PRAYER : Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C., seeking to suspend the sentence passed in Session Case No.207 of 2015 dated 13.07.2022 on the file of learned Session Judge, Mahalir Neethi Mandram, Chennai enlarge on bail pending disposal of the above said Criminal Appeal.

For Petitioners : Mr.S.Saravanakumar

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



ORDER

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This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence passed in Session Case No.207 of 2015 dated 13.07.2022 on the file of learned Session Judge, Mahalir Neethi Mandram, Chennai and enlarge the petitioner on bail pending disposal of the Criminal Appeal before this Court.

2. The petitioners are the accused and the respondent is the complainant. On conclusion of trial, the learned Session Judge, Mahalir Neethi Mandram, Chennai found the petitioners guilty for the offence under Sections 498A and 306 IPC and convicted and sentenced as under;

S. No.	Conviction	Sentence
1	Under Sections 498A and 306 IPC	(i) the accused -A1 and A2 are sentenced to undergo three years rigorous imprisonment each and to pay a fine of Rs.5000/- each in default to undergo simple imprisonment for three months each under Section 498A IPC; (ii)the accused -A1 and A2 are sentenced to undergo Ten Years Rigorous Imprisonment each and to pay a fine of Rs.10000/- each in default to undergo Simple imprisonment for three months each under Section 306 IPC; (iii) the period already undergone by the



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S. No.	Conviction	Sentence
		accused-A1 from 09.08.2013 to 27.09.2013 shall be set off u/s. 428 Cr.P.C.; The accused A2 is released on anticipatory bail; (iv) both the sentence imposed on the accused -A1 and A2 shall run concurrently; (v) Total fine Rs.30,000/-

3. Challenging the said Judgment of conviction and sentence, the petitioners have preferred the above appeal in Crl.A.No.830 of 2022 before this Court and pending appeal, the petitioners have filed this Criminal Miscellaneous Peittion seeking to suspend the sentence of imprisonment imposed by the Court below as stated above.

4. The case of the prosecution is that on 07.08.2013 at about 8.45 pm the deceased committed suicide by hanging herself due to dowry demand.

5. The learned counsel for the petitioners/appellants would submit that there is no evidence to prove that there was a dowry demand and even the RDO enquiry also revealed that the deceased had not committed suicide due to dowry demand and there must be an inducement for committing



offence under Section 306 IPC and the Trial Court failed to consider the same and convicted the appellants and further, there are arguable points available in the appeal and that the petitioners/appellants have got a fair chance of succeeding in the appeal. He would further submit that the fine amount imposed by the trial Court has been paid. Hence, he would pray that the substantive sentences imposed against the petitioners/appellants may be suspended.

6. The learned Additional Public Prosecutor has raised objections to suspend the sentences.

7. Considering the submissions of the learned counsel for the petitioner, this Court is inclined to suspend the **substantive sentence of imprisonment alone**. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners/appeallants are directed to be enlarged on bail subject to the following condition;

the petitioners shall execute a bond for a sum of
Rs.25,000/- (Rupees twenty five thousand only) each



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with two sureties each for a like sum to the
satisfaction of the learned XVIII Metropolitan
Magistrate, Saidapet, Chennai.

09.09.2022
(1/2)

pbn

Note: Issue order copy on 09.09.2022



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To



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P.VELMURUGAN, J.

pbn

1. learned Session Judge, Mahalir Neethi Mandram, Chennai.
2. learned XVIII Metropolitan Magistrate, Saidapet, Chennai.
3. The Assistant Commissioner of Police,
Teynampet Range,
Teynampet,
Chennai – 600 006.
4. The Superintendent, Central Prison, Puzhal, Chennai.
5. The Superintendent, Central Prison for Woman Cell, Puzhal, Chennai.
6. The Public Prosecutor
Madras High Court, Chennai.

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