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*Crl.M.P.No.12862 of 2021
in Crl.A.No.464 of 2021*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.03.2022

CORAM:

THE HON'BLE MR.JUSTICE **R.PONGIAPPAN**

Crl.M.P.No.12862 of 2021
in
Crl.A.No.464 of 2021

1.Parthiban
2.Padma

.. Petitioners/Accused-1 & 2

Vs.

State through
The Assistant Commissioner of Police,
J-3, Guindy Police Station,
Chennai – 600 032.
(Crime No.979 of 2012)

... Respondent/Complainant

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389 (1) of Cr.P.C r/w. 439 Cr.P.C. to suspend the sentence of imprisonment imposed by the learned Sessions Judge, Mahalir Neethimandram, Chennai – 600 003 in S.C.No.358 of 2015 dated 31.08.2021 and enlarge the petitioners on bail pending disposal of C.A.No.464 of 2021.

For Petitioners : Mr.R.Ganesh Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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ORDER

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This Criminal Miscellaneous Petition has been filed by the petitioners/accused 1 and 2, seeking suspension of sentence of imprisonment imposed by the learned Sessions Judge, Mahalir Neethimandram, Chennai – 600 003 in S.C.No.358 of 2015 dated 31.08.2021 and enlarge the petitioners on bail pending disposal of Crl.A.No.464 of 2021.

2. The petitioners/appellants herein are the accused in Sessions Case No.358 of 2015 on the file of the Sessions Court, Mahalir Neethimandram, Chennai. They were found guilty for the offences punishable under Sections 498-A and 304-B of I.P.C. and they have been convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	Section 304B of I.P.C.	10 years Rigorous Imprisonment each and fine of Rs.10,000/- each in default to undergo 3 months Rigorous Imprisonment each.
No separate sentence is imposed for the offence under Section 498A IPC as the accused are sentenced under the major offence.		

3. Challenging the above conviction and sentence, the



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petitioners/accused 1 and 2 have filed Crl.A.No.464 of 2021 along with the instant miscellaneous petition seeking suspension of sentence and bail.

4. The case of the prosecution is that, the first petitioner, namely, Parthiban is the husband of the deceased Suganya and the second petitioner, namely, Padma is the mother of the first petitioner. He married the deceased on 18.04.2010 and after marriage, the petitioners harassed the deceased Suganya for dowry i.e. Jewels and motor cycle, which were agreed to be given at the time of marriage. Due to the cruelty and harassment committed by the petitioners, on 20.02.2012 at about 3.00 p.m., i.e. within 2 years from the date of marriage, the deceased committed suicide by setting herself on fire and then died. Hence, a case was registered against the petitioners/accused 1 and 2 for the offences punishable under Sections 498-A and 304-B of I.P.C.

5. Learned counsel appearing for the petitioners would submit that while at the time the deceased was admitted in the hospital, she has not stated anything about the alleged allegations against the first petitioner, further, after admitting the deceased in the hospital, she was alive for one



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day. At that time also, no steps have been taken for recording dying declaration from her. Further, the petitioners are in judicial custody from 13.08.2021. In the meanwhile, on 22.11.2021, the husband of the second petitioner, who is the father of the first petitioner died and for which, the petitioners were not permitted to attend and accordingly, the final rites of the father of the first petitioner have not been completed. It is his further submission that during the time of trial, the petitioners were enlarged with bail.

6. Learned counsel would further submit that there are arguable points available in the Criminal Appeal and the petitioners/accused have got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioners/Accused may be suspended and the petitioners may be enlarged on bail pending disposal of the above Criminal Appeal.

7. Per contra, the learned Government Advocate (Criminal Side) appearing for the respondent/Police raised objection stating that if the



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petition is allowed, the petitioners may abscond. Further, he would contend that the evidence recorded from the prosecution witnesses would prove the case of the prosecution beyond reasonable doubt. According to him, interference of this Court is not necessary in the findings arrived at by the trial Court.

8. Heard the learned counsels appearing on either side and also perused the materials placed on record.

9. Both the petitioners are convicted and sentenced for the offences under Sections 498-A and 304-B of I.P.C. Immediately after the occurrence, while at the time of taking treatment, the deceased has not made any complaint against the petitioners. Further, the dying declaration has also not been recorded and the final ceremony of the first petitioner's father has not been completed so far. In the said circumstances, the evidence given by the prosecution witnesses needs a detailed appraisal. Further the appeal is not likely to be taken up for final hearing in the near future.

10. Accordingly, considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the



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petitioners, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence and bail is granted on the following conditions:

(a) The petitioners/accused 1 and 2 are ordered to be released on bail, on executing a bond **for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each**, with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram, Chennai.

(b) The petitioners and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

(c) The petitioners shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of



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R.PONGIAPPAN, J.

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