



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.02.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.12831 of 2021

in Crl.A.No.620 of 2021

Veerakumar

... Petitioner

Vs.

State Represented by,
The Deputy Superintendent of Police,
Cuddalore New Town Police Station,
Cuddalore.

... Respondent

PRAYER: The Criminal Revision Case is filed under Section 389 of the Code of Criminal Procedure, pleaded to Suspend the order of conviction passed by the learned Sessions Judge, Mahila Court, Cuddalore in Sessions Case No.89 of 2019 dated 13.10.2021 and enlarge the Appellant/Accused on bail.

For Petitioner : Mr.B.Balavijayan

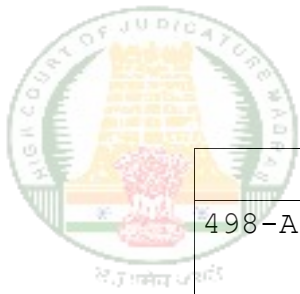
For Respondent : Mr.S.Sugendran
Government Advocate(Crl.Side)

ORDER

(This case has been heard through Video Conferencing)

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant, seeking suspension of sentence of imprisonment, imposed against the petitioner in S.C.No.89 of 2019 dated 13.10.2021 by the learned Sessions Judge, Mahila Court, Cuddalore.

2. In and by the judgment of the Trial court, the petitioner was found guilty and convicted and sentenced as follows:-



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Offence u/s	Conviction & Sentence
498-A IPC	3 years S.I and to pay a fine of Rs.10,000/-, in default, undergo six months S.I.
4-B Tamil Nadu Prohibition of Harassment of Women Act.	5 years S.I and to pay a fine of Rs.50,000/-, in default, undergo one year S.I.
304-B IPC	7 years S.I

against which, the present Criminal Appeal has been filed.

3. The brief facts of the case is as under:-

The case was registered against the petitioner/appellant by the respondent/Police for the complaint raised by PW1/Mother of the victim woman, initially the case was registered under Section 174 Cr.P.C and later, on receipt of enquiry report by the Revenue Divisional Officer, Cuddalore, the case was altered to one under Sections 498-A, 304-B IPC and Section 4B of Tamil Nadu Prohibition of Harassment of Women Act. After completion of investigation, final report was filed before the Court of Sessions, Mahila Court, Cuddalore and the case was taken up for trial in S.C.No.89 of 2019. During trial, on the side of the prosecution, witnesses were examined as PW1 to PW14 and documents Ex.P1 to Ex.P14 were marked as evidences along with two material objects viz., M.O.1 and M.O.2. After completion of trial, the petitioner was questioned under Section 313 Cr.P.C and he had denied the charges. No evidence was let in on the side of the petitioner/appellant. The Trial Court, found the petitioner /appellant guilty and convicted and sentenced as stated above.

4. The submissions of the learned counsel appearing for the petitioner are as under:-

(a) Admittedly, the marriage between the petitioner and deceased was a love marriage and the marriage was performed against the wishes of PW1/Mother of the deceased, who was having grudges against the petitioner/appellant. As per the evidence of PW1, she came in touch with her daughter during her baby shower of the first child. As per evidence of PW1, the demand of money of Rs.1,00,000/- was made by her daughter for getting a job as Sub Inspector of Police or else, she had demanded her mother to pay Rs.3,00,000/- to start a vegetable shop. There is absolutely no material to show that the deceased asked PW1 to pay money for the petitioner/appellant or on the compulsion of the petitioner.



(b) The petitioner and the deceased were living separately as tenant in the house belonging to PW2 and PW3 and out of wedlock, they also have two children. Other than PW1 and PW9/Brother of the deceased, all the independent witnesses examined by the prosecution have not supported the case of prosecution and the neighbours have specifically stated that the petitioner and the deceased were leading a happy married life.

(c) The Trial Court, without there being any material to show the demand of dowry by the petitioner, had convicted and sentenced the petitioner/appellant as stated above. The children are also now with the parents of the petitioner and the petitioner is in jail from the date of conviction on 13.10.2021. The petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal. There are arguable points available in the Criminal Appeal and the appeal is not likely to be taken for final hearing in the near future and he would pray the sentence imposed against the petitioner/appellant may be suspended and the petitioner may be enlarged on bail.

5. Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that the marriage between the petitioner/appellant and the victim is love marriage. As per PW1, the petitioner had demanded Rs.3,00,000/- from her daughter and since she was unable to pay the amount, the petitioner/appellant had caused harassment and cruelty on the victim, due to which the victim committed suicide by hanging. The incident happened within 4 years of marriage. He would further submit that prosecution has examined PW1 to PW14 and marked Ex.P1 to Ex.P14 along with two M.O's. Though the independent witnesses have turned hostile, the Trial Court, taking into consideration, the evidences PW1 and PW9, has found the accused guilty and convicted and sentenced as stated above.

6. Heard the learned counsel and perused the materials on record including the depositions.

7. Admittedly, it is the case that the marriage between the petitioner/appellant and the deceased was a love marriage and out of wedlock they got two children within 4 years of marriage. The victim had committed suicide by hanging. The independent witnesses who are the neighbours have not supported the case of the prosecution and they have deposed that the deceased and the petitioner were leading a happy married life. Further, the custody of the children are also with the parents of the petitioner.

8. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/appellant, this Court is of the opinion that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-



(a) Accordingly, the petitioner/appellant is ordered to be released on bail on condition to execute their own bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** each before the Superintendent of the concerned prison/Jailor concerned, in which the appellant has been confined and thereafter, on his release, the petitioner/Appellant shall execute two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Cuddalore, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) The petitioner/appellant shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 am., until further orders.

8. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-
02/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE
MAHILA COURT, CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE DEPUTY SUPERINTENDENT OF POLICE,
CUDDALORE NEW TOWN POLICE STATION,
CUDDALORE.



5 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

C.C. to M/S. B.BALAVIJAYAN Advocate on payment of necessary charges

Order

in
CRL MP.12831/2021
in
CRL A.620/2021

Date :02/02/2022

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TA-02/02/2022