



Crl.M.P.Nos.19192 & 19193 of 2022
in Crl.A.No.1272 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.M.P.Nos.19192 & 19193 of 2022
in
Crl.A.No.1272 of 2022

Ramasamy

... Petitioner/Accused

Vs.

State

Represented by the Inspector of Police,
Appakkoodal Police Station,
Erode District.

... Respondent

PRAYER: Criminal Miscellaneous Petitions filed under Sections 389(1) & 482 of Cr.P.C to suspend the sentence passed in the judgment dated 13.10.2022 in S.C.No.67 of 2019, by the learned Sessions Judge, Mahaleer Neethi Mandram, (Fast Track Mahila Court), Erode till disposal of the main appeal and enlarge the petitioner on bail and to exempt to surrender and prefer ths Criminal Appeal against the judgment dated 13.10.2022 passed in S.C.No.67/2019 by the learned Sessions Judge, Mahaleer Neethi Mandram, (Fast Track Mahila Court), Erode.

For Petitioner : Mr.V.Vijayakumar

For Respondent : Mr.C.E.Prathap
Government Advocate (Crl. Side)



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COMMON ORDER

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These Criminal Miscellaneous Petitions have been filed by the petitioner/accused, seeking to suspend the sentence of imprisonment imposed on the petitioner in S.C.No.67 of 2019 by a judgment dated 13.10.2022 passed by the learned Sessions Judge, Mahaleer Neethi Mandram, (Fast Track Mahila Court), Erode till disposal of the main appeal and enlarge the petitioner on bail and to exempt the petitioner from surrendering before the trial court pending disposal of the above appeal.

2. The petitioner herein is the accused in S.C.No.67 of 2019 on the file of the learned Sessions Judge, Mahaleer Neethi Mandram, (Fast Track Mahila Court), Erode. He was found guilty of the offence under Section 498(A) of I.P.C. and he has been convicted and sentenced as under:

Petitioner /Accused	Conviction	Sentence
Petitioner/Accused	Sections 498(A) of I.P.C.	To undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo three months simple imprisonment.
Total fine imposed against the petitioner/Accused is Rs.5,000/-		



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3. Challenging the above conviction and sentence, the petitioner/accused has filed Crl.A.No.1272 of 2022 along with the instant miscellaneous petitions seeking suspension of sentence and bail. The trial Court had suspended the sentence for a period of thirty days. Thereafter, the petitioner neither filed any petition seeking extension of time nor filed any appeal before the trial Court.

4. The contention of the petitioner is that the petitioner was charged for the offence under Sections 498(A) and 306 of I.P.C. The deceased, who is the wife of the petitioner, consumed poison and also administered the same to her two children, who are aged about 13 and 11 years, respectively. On coming to know about the same, the petitioner took immediate steps to rush his wife as well as children to the hospital for treatment, where the wife succumbed to death and the children were saved. Thereafter, a case has been registered and on conclusion of trial, the petitioner was acquitted for the offence under Section 306 of I.P.C. and convicted for the offence under Section 498(A) I.P.C.

5. Before the trial Court, on the side of the prosecution, 13 witnesses examined as P.W.1 to P.W.13 and marked 17 documents as Exs.P1 to P17. On the side of the defence, no witnesses examined and no documents marked.



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6. Learned counsel for the petitioner submitted that the petitioner is a coolie with minimum education and he is a poor person. Due to this reason, the petitioner was unable to travel to Chennai and he also could not approach the trial Court seeking extension of time. Learned counsel further submitted that the petitioner is now taking care of two children. The trial Court finding that there is no materials against the petitioner for the offence under Section 306 I.P.C, ought to have acquitted the petitioner for offence under Section 498(A) of I.P.C.

7. According to the learned counsel for the petitioner/accused, there are arguable points available in the Criminal Appeal and the petitioner/accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/accused may be suspended and the petitioner may be exempted from surrendering before the Trial Court.

8. Learned Government Advocate (Crl.Side) appearing for the respondent-Police submitted that the trial Court on the evidence of P.W.1 to P.W.13 and Exhibits Ex.P1 to Ex.P17, convicted the petitioner. The petitioner having obtained suspension of sentence for a period of thirty days, ought to have got extension or to file an appropriate petition before the Court, but failed to do so. Hence, he opposed these petitions. Further, fairly submitted that the



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petitioner is a coolie and two children are now residing with the petitioner.

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9. Heard the learned counsel appearing for the petitioner as well as learned Government Advocate (Crl. Side) appearing for the respondent and also perused the materials placed on record.

10. Considering the facts and circumstances of the case and also taking note of the fact that there are arguable points involved in this appeal and it would take some time for the appeal to be taken up for final hearing, this Court is inclined to suspend the Substantive Sentence of Imprisonment alone. till the disposal of the appeal.

11. Accordingly, till the disposal of the Criminal Appeal, the reliefs of suspension of sentence, exemption from surrendering and bail are granted on the following conditions:

(a) The petitioner/accused is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahaleer Neethi Mandram, (Fast Track Mahila Court), Erode.



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(b) The petitioner/accused 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 petitioner shall appear before the Trial Court once in three months at 10.30 a.m., until further orders.

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To

1. Inspector of Police,
Appakkoodal Police Station,
Erode District.
2. The Sessions Judge,
Mahaleer Neethi Mandram,
(Fast Track Mahila Court), Erode.
3. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.
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