



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty Second day of April Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL MP(MD) No.3920 of 2022
in
Crl.A(MD)No.243 of 2022

1. KARUPPAIAH @ SURESH
2. KOODAMMAL
3. MUTHAMMAL

... APPELLANTS/ACCUSED NO.1,3 AND 4

Vs

THE STATE REP. BY,
THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID, MADURAI.
(CRIME NO. 1 OF 2013).

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the learned Sessions Judge, Mahalir Neethimandram, Madurai in S.C.No.137 of 2015, Dated 02.03.2022 and enlarge the appellants on bail pending disposal of the above said Criminal Appeal.

PRAYER IN Crl.A(MD)No.243 of 2022 :

Pleased to call for the records and set aside the sentence and conviction imposed by the Learned Sessions Judge, Mahalir Neethimandram, Madurai in S.C.No.137 of 2015 dated 02.03.2022.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.PRABHU, Advocate for the petitioner and of M/S.M.AASHA, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the judgment dated 02.03.2022 passed in S.C.No.137 of 2015 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai and enlarge the petitioners/Accused Nos.1, 3 and 4 on bail pending disposal of the above said Criminal Appeal.



2.The case of the prosecution is that the first accused was working as Teacher by profession and he is the son of Accused Nos.2 and 3. The fourth accused is the sister of the third accused. There are two deaths in this case, who are mother aged about 37 years and daughter aged about 3 years. The deceased mother, who worked as Police Constable, is the wife of the first accused and daughter-in-law of accused Nos.2 and 3. The marriage between the first accused and his wife was solemnized on 12.12.2005 and on 07.01.2007, a male child was born. While so, the first accused, at the instigation of Accused Nos.2 to 4, harassed his wife to give her entire salary amount. Hence, there was misunderstanding between them in the year 2009. At the intervention of the elders, they jointly lived together. At this juncture, Accused Nos.2 to 4 instigated the first accused to desert his wife and thereby all the accused compelled the deceased to get conceive for the second child, but the deceased refused. On 16.01.2011, the deceased delivered a girl baby and the newly born girl baby was differentially abled child with deformed legs, deaf and dumb. Hence, all the accused pointed the physical disability of the child and thereby continuously tortured the deceased. The deceased was deeply depressed due to continuous harassment and torture caused by all the accused with regard to not giving her entire salary amount, money for purchasing house, delivery of handicapped, deaf and dumb girl baby. Hence, she decided to end her life along with her girl child. Thus, the deceased has written two suicidal notes among which, one was addressed to the Superintendent of Police, Madurai and another one was addressed to her sister Gowri. On 02.09.2013 at about 10.30 p.m., the deceased committed suicide by poisoning herself and her daughter in the upstairs of her parents house at Peraiyur.

3.On the basis of the complaint lodged by the mother of the deceased, F.I.R has been registered against the accused in Crime No.177 of 2013 for the offences under Sections 498(A) and 306 of I.P.C and the same was taken on file in S.C.No.137 of 2015 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai. The trial Court found the first petitioner/Accused No.1 guilty under Section 498(A) of I.P.C and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.2,00,000/- in default 6 months simple imprisonment. Further, for the offence under Section 306 of I.P.C and sentenced him to undergo 10 years rigorous imprisonment and also to pay a fine of Rs.3,00,000/- in default one year simple imprisonment. The trial Court found guilty of Accused Nos.3 and 4 for the offence under Section 498(A) of I.P.C and sentenced them to undergo three years rigorous imprisonment and to pay a fine of Rs.25,000/- each in default six months simple imprisonment. Further, for an offence under Section 306 of I.P.C and sentenced them to undergo 7 years rigorous imprisonment and also to pay a fine of Rs.25,000/- each in default one year simple imprisonment. During the trial, A.2 died on 29.05.2021. Against the sentence, the petitioners/Accused Nos.1, 3 and 4 have



preferred the present Criminal Appeal along with the instant Miscellaneous Petition seeking suspension of sentence and bail.

4.The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5.The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, she strongly opposed to grant suspension of sentence.

6.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7.The learned counsel appearing for the petitioners pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this Appeal and further the Appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioners/Accused Nos.3 and 4 herein alone are entitled to the relief of grant of suspension of sentence.

8.Insofar as the first petitioner/Accused No.1 is concerned, there are incriminating materials to attract the offences as against him, this Court is not inclined to suspend the sentence and this petition is dismissed in respect of the first petitioner/Accused No.1.

9.Accordingly, the relief of suspension of sentence and bail is granted to the petitioners/Accused Nos.3 and 4 on the following conditions:-

(i)The petitioners/Accused Nos.3 and 4 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram, Madurai.

(ii)The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii)The petitioners/Accused Nos.3 and 4 shall appear before the respondent police daily at 10.30 a.m., for a period of four weeks from the date of receipt of a copy of



4 shall appear before the respondent police once in a month on the first working day of the every English Calendar month till the disposal of the Criminal Appeal.

sd/-
22/04/2022

WEB COPY

/ TRUE COPY /

26/04/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note:- In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
CBCID, MADURAI.
3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
4. THE SUPERINTENDENT,
SPECIAL PRISON FOR WOMEN,
MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.3920 of 2022
in
Crl.A(MD)No.243 of 2022
Date :22/04/2022

ps
USK/PN/SAR-IV/26.04.2022/4P/6C