



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

Friday, the Twenty Fourth day of June Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.4181 of 2022
IN
CRL A(MD)No.12 of 2022

SEENIVASAN @ RAJA MOHAMMED

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
S.S.COLONY POLICE STATION,
MADURAI.
CRIME.NO.930/2014

... 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 sentences passed in S.C.No. 486 of 2016 dt 08/12/2021 on the file of the learned Sessions Judge, Maghalir Neethimandram, Madurai.

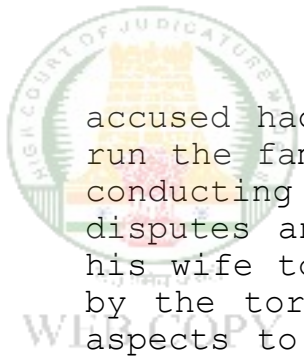
PRAYER IN CRL A(MD) No.12 of 2022:

Pleased to call for the records pertaining to the Judgment made in S.C.No.486 of 2016 dated 08.12.2021 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and set aside the same by allowing above appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.CHANDRAKUMAR, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence passed in S.C.No.486 of 2016, dated 08.12.2021, on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai, till the disposal of this Criminal Appeal.

2.The case of the prosecution is that the deceased and the petitioner/accused got married in December 2013, that the deceased was a divorcee and had two children, who have gone with their father, that after the second marriage, the deceased resided at H.M.S. Colony, Ramalinga Nagar, Madurai with the accused, that the



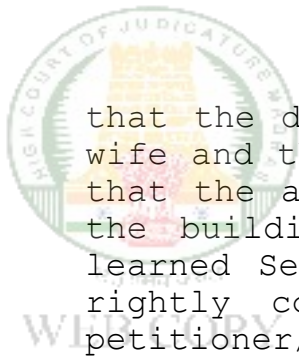
accused had no work and he was not in a position to give money to run the family, that the accused got the jewels of the deceased for conducting business and mortgaged the same, that there existed disputes and quarrels between them, the accused had been torturing his wife to give her jewels for mortgage and the deceased was upset by the torture given by him, that the deceased informed the above aspects to her sister Tmt.Anish Fathima, that she was under mental depression, that on 17.07.2014 at about 05.30 p.m., the accused left the house after quarrelling with the deceased and that thereafter, the deceased committed suicide by hanging with nylon rope in her bedroom and died.

3.On the basis of the complaint, FIR came to be registered in Crime No.930 of 2014 for the offence under Section 174 of Cr.P.C., and subsequently, the case was altered into Section 306 IPC. After completing investigation, the respondent police has laid the final report for the offence under Section 306 IPC as against the petitioner/accused. After completing the trial, the learned Sessions Judge found the petitioner guilty and convicted him for the offence under Section 306 IPC and sentenced him to undergo six years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo six months Simple Imprisonment. Aggrieved by the said Judgment of conviction and sentence, the petitioner/accused has preferred the present appeal along with the above Miscellaneous Petition seeking suspension of sentence.

4.It is not in dispute that the petitioner's earlier application in Crl.M.P. (MD)No.599 of 2022 for suspension of sentence was dismissed by this Court, vide order dated 20.01.2022 and the petitioner/accused has come forward to file the above application seeking suspension of sentence again.

5.The learned counsel for the petitioner would submit that the prosecution has relied upon the evidence of P.W.1 and P.W.2, but there is no independent witnesses to prove the cruelty alleged by the prosecution, that P.W.8, who is the owner of the house has only deposed that the deceased alone was residing as a tenant in the house, that P.W.10, Executive Magistrate, who conducted an inquiry for the offence under Section 174 of Cr.P.C., did not give any finding that the accused had committed cruelty, that the deceased had committed suicide for her mental depression, due to separation of her two children and that the prosecution has failed to prove that the petitioner/accused had abetted for commission of suicide by the deceased.

6.The learned Additional Public Prosecutor would submit that P.W.1 and P.W.2 have deposed in clear terms that the deceased had hanged herself with nylon rope, that P.W.2 had also deposed that the deceased had informed about the torture and cruelty caused by the
<https://hcservices.mca.gov.in/hcservices/> P.W.6 and P.W.7, who are the neighbours, have deposed



that the deceased died due to the disputes between the husband and wife and that P.W.7, who is the another tenant of P.W.8 had deposed that the accused and the deceased were residing in the upstairs of the building owned by P.W.8. He would further submit that the learned Sessions Judge, after considering the entire evidence, has rightly come to the decision that the charge as against the petitioner/accused stood proved.

7.The learned counsel for the petitioner would submit that the petitioner has been in incarceration from the date of judgment i.e., 08.12.2021 onwards. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8.The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

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

10.The learned counsel for the petitioner 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 criminal revision and further the criminal revision 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 petitioner herein is entitled to the relief of grant of suspension of sentence.

11.Considering the above facts and circumstances of the case and also considering the period of incarceration, this Court is inclined to grant suspension of sentence to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two 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 petitioner shall appear before the

<https://hcservices.ecourts.gov.in/hcservices/> Court on all working days at 10.30 a.m., for



a period of one month and thereafter, appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
24/06/2022

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/ TRUE COPY /

27/06/2022

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

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
S.S.COLONY POLICE STATION,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.CHANDRAKUMAR.A Advocate SR.No.6131

ORDER

IN

CRL MP(MD) No.4181 of 2022

IN

CRL A(MD)No.12 of 2022

Date :24/06/2022

SA/PN/SAR.1/27.06.2022/4P/6C