



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

Tuesday, the Seventh day of June Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.5480 of 2022
IN
CRL A(MD)No.311 of 2022

1 PERUMAL

2 LINGAPPAN

... APPELLANTS/ACCUSED NO.1 & 2

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
M.CHATTRAPATTI (OOMACHIKULAM) POLICE STATION,
MADURAI DISTRICT.
(CRIME NO. 360/2011)

... 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 of imprisonment imposed by the Learned Sessions Judge, Mahalir Neethimandram, Madurai in S.C No. 80/2015 dated 28.02.2022 moreover the appellants not been paid the fine amount Rs. 25000/- each imposed by Sessions Judge, Mahalir Neethimandram, Madurai and enlarge the petitioner/appellant on bail pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD)No.311 of 2022:

Pleased to call for the records and set aside the conviction and sentence passed against them by the Learned sessions Judge, Mahalir Neethimandram, Madurai District, dated 28.02.2022 made in S.C.No.80/15 by allowing the present criminal 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 MR.V.JEYARANI, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

Heard the learned counsel appearing for the appellants and the learned Additional Public Prosecutor appearing for the respondent.



2.I have perused the appellants' affidavit filed in support of the above petition, judgment of the trial Court and the memorandum of the appeal.

3.It is not in dispute that the deceased is the wife of the second accused and that the accused 1 and 3 are the parents of the accused 2 and 4.

4.The case of the prosecution is that after two years of marriage of the second accused and the deceased, the first accused, who is the father-in-law of the deceased, misbehaved with her and forced her for sexual intercourse, that though the deceased had informed the same to her husband and the other accused, they had abused the deceased as if she was falsely blaming the first accused, that the first accused had been continuously committing sexual torture to the deceased and consequently, she was depressed and poured kerosene on her and set ablaze on 02.05.2011 at 12.00 noon in the house of the accused at Velichanatham village and that the daughter of the deceased aged 7 years had tried to rescue her mother, but she had also sustained burn injuries and as a result of which, both the mother and the daughter had died.

5.It is further evident that the prosecution has examined 14 witnesses as P.W.1 to P.W.14 and exhibits 13 documents as Ex.P1 to Ex.P13 and one material object as M.O.1, whereas, the accused have adduced neither oral nor documentary evidence.

6.The learned Sessions Judge, on considering the evidence adduced and on hearing the arguments of both the sides, has passed the impugned judgment dated 28.02.2022 in S.C.No.80 of 2015 convicting the appellants/accused 1 and 2 for the offence under Section 306 IPC and sentenced them to undergo seven years rigorous imprisonment and also to pay a fine of Rs.25,000/- in default to undergo one year simple imprisonment.

7.The learned counsel for the appellants would submit that P.W.1, P.W.2 and P.W.6 are not the eye witnesses for the alleged occurrence and for the sexual harassment alleged to have committed by the first accused, that they are only the hearsay witnesses and that there are material contradiction in the evidence of P.W.1, P.W.2 and P.W.6. He would further submit that there was civil dispute pending between the P.W.1 and her deceased sister, that P.W.1 had obtained settlement deed from her father and as such, she is liable to pay amount to her deceased sister, that since the P.W.1 has failed to give any amount to the deceased and as there was quarrel between them, the deceased felt that she was cheated and became upset and that due to the said cheating by P.W.1, the deceased committed suicide.

8.The learned counsel for the appellants would further submit
<https://hcc.mca.gov.in/civil> appellants were arrested and remanded to judicial custody



on 28.02.2022 and they are confined at Central Prison, Madurai and that they have fair chance of acquittal and therefore they are constrained to file the present appeal and also the above application to suspend the sentence of imprisonment and bail.

9.The learned Additional Public Prosecutor would submit that daughter-in-law had been sexually tortured by the first accused/father-in-law, that the evidence of P.W.1, P.W.2 and P.W.6 are sufficient enough to prove the said factum, that there is ample evidence to show that the first accused had caused sexual harassment and even 10 days prior to her death, she left the matrimonial home in anger and stayed in P.W.6's home for some days, that the defence theory projected by the accused was vehemently denied by P.W.1 and that they have not adduced any evidence to substantiate the defence plea.

10.It is pertinent to note that the wife of the second accused and daughter-in-law of the accused 1 and 3 had committed suicide by self immolation and that her seven years old daughter, who came to rescue her mother, had also sustained burn injuries and both of them succumbed to the injuries.

11.Considering the above facts and circumstances of the case and also considering the seriousness and gravity of the offence alleged against the appellants and also the fact that the appellants are in prison from 28.02.2022, this Court is not inclined to grant suspension of sentence to the appellants at the present stage.

12.In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
07/06/2022

/ TRUE COPY /

23/06/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.
- 2 THE INSPECTOR OF POLICE
M.CHATTRAPATTI (OOMACHIKULAM) POLICE STATION,
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.



4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

WEB COPY

ORDER
IN
CRL MP (MD) No.5480 of 2022
IN
CRL A (MD) No.311 of 2022
Date :07/06/2022

CSM
PKP/JM/SAR-2/23.06.2022/4P/5C