



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Nineteenth day of September Two Thousand and Twenty Two

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.6133 of 2022
in
CRL.A.(MD)No.350 of 2022

REVATHI

... PETITIONER/APPELLANT/
ACCUSED NO.1

Vs

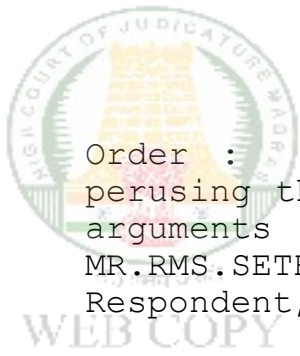
THE STATE REP. BY,
THE INSPECTOR OF POLICE,
THIRUPPATHUR TOWN POLICE STATION,
THIRUPPATHUR,
SIVAGANGAI DISTRICT.
CRIME NO.194 OF 2016.

... RESPONDENT/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 in Judgement dated 27.04.2022 passed in S.C.No.60 of 2017 on the file of the Principal District and Sessions Court, Sivagangai and enlarge the appellant on bail pending disposal of the instant criminal appeal.

Prayer in CRL.A.(MD)No.350 of 2022 :

Pleased to call for the Judgment dated 27.04.2022 passed in S.C.No.60 of 2017 on the file of the Principal District and Sessions Court, Sivagangai in Crime No.194 of 2016 on the file of the Respondent Police convicting her Under Sections 307 and 304 (1) of IPC, in which the Appellant was sentenced to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default to undergo Simple Imprisonment for two months for the offence U/s.307 of IPC and she was sentenced to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.2,000/- in default to undergo Simple Imprisonment for two months for the offence U/s.304 (1) of IPC and set aside the same.



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. MAHENDRAN.P, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Principal District and Sessions Judge, Sivagangai, dated 27.04.2022, in S.C.No.60/2017 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the first accused in this case, has been convicted by the learned trial judge, for the alleged offence under Section 307 of IPC and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo simple imprisonment for a period of 2 months and for the alleged offence under Section 304(ii) of IPC, she was convicted and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default to undergo simple imprisonment for a period of 2 months, in S.C.No.60 of 2017 on the file of the learned Principal District and Sessions Judge, Sivagangai. Both the sentence were ordered to run concurrently and the set off under Section 428 Cr.P.C. was also ordered.

3.The case of the prosecution in brief:

The deceased's family and the accused's family are Pangalis. In respect of the property, there was continuous trouble between these two families. During the above said issue, accused Nos.1 and 2 made a threat to the defacto complainant's family that they will kill the complainant and her mother, who is the deceased. On 12.07.2016, at about 6.00 p.m., when the deceased was near the motor pump set, the accused persons came there and picked up quarrel with the deceased. The first accused caused assault on the deceased with hands. Then that was intervened by the defacto complainant. So the first accused caused assault on the defacto complainant and pushed her. On hearing the noise, all the relatives gathered in that place. The first accused pushed the deceased against the black stone. The second accused also caused assault with broom stick, etc., Later the first accused sitting on chest portion of the deceased caused assault upon her with hands by pulling her. She was pushed against the floor. The deceased sustained severe injuries. Therefore, she was taken to the hospital and died on 13.07.2016. Based upon the above said complaint, the case was registered and it was tried in S.C.No.60 of 2017 by the learned Principal District Judge, Sivagangai and during the trial process on the side of prosecution fifteen witnesses have been examined and 14

<https://www.judgement.in/>



also marked. The Medical Report of the deceased was marked at document.

4. On the basis of the evidence let in by the prosecution, the trial Court found that the first accused was liable to be punished under Section 307 IPC and sentenced him to undergo 10 years rigorous imprisonment and imposed a fine of Rs.2,000/- and apart from that she was also convicted under Section 304(i) IPC and sentenced to undergo 10 years rigorous imprisonment and also imposed a fine of Rs.2,000/- and second accused was convicted under Section 355 of IPC and imposed fine of Rs.1,500/-. The first accused, who is the petitioner herein, was taken into custody and filed the present appeal. Pending appeal seeking suspension of sentence this Criminal Miscellaneous Petition has been filed.

5. The learned counsel for the petitioner submits that because of the above said issue over the property, dispute has arisen between the parties, over which, a suit is also pending and there was only wordy quarrel on the particular date. Apart from that there was no such assault and attempt to murder the deceased.

6. But the learned Additional Public Prosecutor would submit that because of the above said enmity the accused persons intended to kill the deceased. The first accused caused severe assault, which was properly proved by the prosecution before the trial Court, not only by the oral evidence, but also by the documentary evidence.

7. Heard both sides.

8. It is not in dispute that there was a dispute with regard to the property between the defacto complainant's family and the deceased's family. On the particular date of the occurrence, it appears that both of them went to the disputed property and at that time, quarrel arose between them. Absolutely, there is no material to show that it was a pre-planned attack. There was a sudden quarrel, by which, this petitioner appears to have pushed down the deceased against the black stone and she sustained injuries. The postmortem report also reveals that due to the sudden pulmonary attack, the death has occurred. Apart from that there was severe injury on the head region also. Only on that ground these accused was sentenced and convicted under Sections 307 and 304(ii) IPC.

9. Considering the fact that it was not a pre-planned murder and arising out of the sudden quarrel between the two families, considering the period of incarceration, this Court is inclined to suspend the sentence, since the appeal may not be heard in the near future. On that ground this Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner

shall have to deposit 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 Principal District and Sessions Judge, Sivagangai and on further condition that the petitioner shall appear before the said Court once in a week at 10.30 a.m. pending appeal.

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sd/-
19/09/2022

/ TRUE COPY /

20/09/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SIVAGANGAI.
2. THE INSPECTOR OF POLICE,
THIRUPPATHUR TOWN POLICE STATION,
THIRUPPATHUR, SIVAGANGAI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.MAHENDRAN P, Advocate (SR-10169[I] dated 19/09/2022)

ORDER
IN
CRL MP(MD) No.6133 of 2022
in
CRL.A.(MD)No.350 of 2022
Date :19/09/2022

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USK/VR/SAR-II/20.09.2022/4P/6C