



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

Friday, the Fourteenth day of October Two Thousand and Twenty Two
PRESENT

The Hon`ble Mrs.Justice J.NISHA BANU
and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.7509 of 2022

IN

CRL A(MD) No.407 of 2022

1 S.SANTHAKUMAR
2 MALAIYARASI
3 VANITHA

... APPELLANTS/ACCUSED 1 TO 3

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
RAMESWARAM NAGAR POLICE STATION,
RAMANATHAPURAM DISTRICT.
CRIME NO.54 OF 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 sentence imposed by the Fast Track Mahila Court, Ramanathapuram by its judgment dt.31.05.2022 in SC.No.74 of 2015 and enlarge the Petitioner on bail.

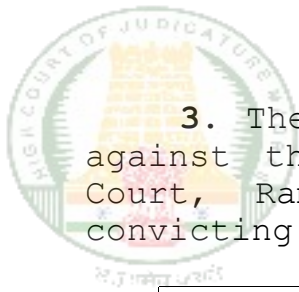
PRAYER CRL.A(MD) .407/2022:

Pleased to call for the records and set aside the judgment of the Fast Track Mahila Court, Ramanathapuram in his judgment dated 31.05.2022 in S.C.No.74 of 2015 by allowing this 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 M/S.BAALASUNDHARAM K, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed seeking to suspend the sentence imposed on the petitioners by judgment and order dated 31.05.2022 passed in S.C.No.74 of 2015 on the file of the Fast Track Mahila Court, Ramanathapuram and to enlarge the petitioners on bail pending disposal of the above appeal.

2. The learned counsel appearing for the petitioners sought for permission of this Court to withdraw this petition, insofar as the first petitioner/appellant is concerned. accordingly, this Criminal Miscellaneous Petition is dismissed, insofar as the first petitioner/appellant is concerned.



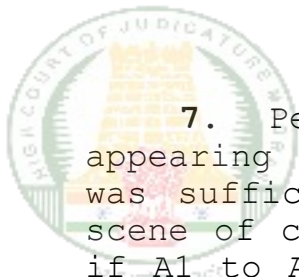
3. The petitioners / appellants have filed the Criminal Appeal against the Order and Judgment passed by the Fast Track Mahila Court, Ramanathapuram in S.C.No.74 of 2015 dated 31.05.2022, convicting and sentencing them in the following manner:-

Rank	Offence	Sentence
A1	302 of IPC	Life Imprisonment and fine of Rs.3,000/-, in default, to undergo two (2) years Simple Imprisonment
A2 & A3	342 of IPC	One (1) year Rigorous Imprisonment
A2 & A3	302 r/w 34 of IPC	Life Imprisonment and fine of Rs.3,000/-, in default, to undergo two (2) years Simple Imprisonment

4. The case of the prosecution is that the deceased was the wife of the first petitioner/appellant, daughter-in-law of the second petitioner/appellant and sister-in-law of the third petitioner/appellant. The deceased is said to have been living along with the first and second petitioners/appellants in the matrimonial home. The further case of the prosecution is that there was regular dispute and misunderstanding between the parties and the deceased used to be subjected to cruelty by the accused persons. On 29.04.2014, at about 01.30 p.m., the petitioners/appellants are said to have questioned the deceased as to where she went away from the matrimonial home and the deceased is said to have developed a wordy quarrel with them. Immediately, all the accused persons are said to have attacked the deceased and she was restrained and A1 is said to have strangled the deceased and thereby, caused the death of the deceased. Accordingly, an FIR came to be registered against the petitioners/appellants.

5. The Court below, on considering the evidence available on record came to a conclusion that the prosecution has proved the case beyond reasonable doubt and convicted and sentenced the petitioners/appellants in the manner stated above.

6. The learned counsel appearing on behalf of the second and third petitioners/appellants submitted that the Court below had proceeded to assume the presence of these petitioners in the scene of crime, inspite of there being no evidence available against them. The learned counsel further submitted that main witnesses, who were relied upon by the prosecution, turned around later and they did not support the case of the prosecution. However, the Court below disregarded the subsequent statements made by the witnesses, after they were recalled. The learned counsel submitted that there are valid grounds in favour of the second and third petitioners/appellants and hence, sought for suspension of sentence in favour of the second and third petitioners/appellants. The learned counsel also submitted that the fine amount has already been paid by the second and third petitioners/appellants.



7. Per contra, the learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that there was sufficient evidence to show the presence of A1 to A3 in the scene of crime. The incident had taken place inside the house and if A1 to A3 were present inside the house, the burden of proof is upon them to explain as to how the incident took place, under Section 106 of the Indian Evidence Act, 1872, failing which, adverse inference must be drawn against the accused persons. The learned Additional Public Prosecutor also brought to the notice of this Court the finding of the Court below in this regard.

8. In the considered view of this Court, the third petitioner/appellant has been roped in as an accused mainly based on the fact that she attended the phone call, when a call was made by PW2 and PW13. Insofar as the second petitioner/appellant is concerned, even according to the case of the prosecution, she was residing in the first floor of the house and it requires appreciation of evidence to see if the second petitioner/appellant was also present inside the same room, when the incident took place. This is a case based on circumstantial evidence and it requires an indepth analysis of evidence available on record. There are some more grounds that have raised by the learned counsel appearing for the petitioners / appellants, which can be gone into only at the time of final hearing of the appeal.

9. Considering the fact that the second and third petitioners/appellants are ladies and they have already suffered incarceration for nearly five months and their presence in the scene of crime at the time of incident has to be gone into at the time of final hearing of the appeal, this Court is inclined to consider the suspension of sentence insofar as the second and third petitioners are concerned.

10. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.74 of 2015 dated 31.05.2022, as against the second and third petitioners/appellants, subject to the following conditions:

- (I) The petitioners shall execute a bond for a sum of Rs.25,000/- each, with two sureties each, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional District Fast Track Mahila Court, Ramanathapuram;
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bonds and the trial Court may obtain a copy of their Aadhar cards or Bank pass Books to ensure their identity; and



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(iii) The petitioners shall appear before the respondent police every Monday at 10.30 a.m., for a period of 8 weeks. After completion of the period reporting before the respondent police, the petitioners shall report before the Additional District Fast Track Mahila Court, Ramanathapuram, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

sd/-

14/10/2022

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18/10/2022

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

TO

- 1 THE JUDGE,
FAST TRACK MAHILA COURT, RAMANATHAPURAM.
 - 2 THE ADDITIONAL DISTRICT FAST TRACK MAHILA JUDGE,
RAMANATHAPURAM.
 - 3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
 - 4 THE SUPERINTENDENT
CENTRAL PRISON FOR WOMEN, MADURAI.
 - 5 THE INSPECTOR OF POLICE
RAMESWARAM NAGAR POLICE STATION,
RAMANATHAPURAM DISTRICT.
 - 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.BAALASUNDHARAM K Advocate SR.No.11447

ORDER IN

CRL MP(MD) No.7509 of 2022
IN CRL A(MD) No.407 of 2022
Date :14/10/2022

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