



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

Thursday, the Twenty First day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL.M.P.(MD)No.7628 of 2022
in
CRL.A.(MD)No.411 of 2022

SAKUNTHALA

... APPELLANT / ACCUSED NO.2

Vs

THE STATE REP.BY,
THE DEPUTY SUPERINTENDENT OF
POLICE, SAMAYANALLUR SUB DIVISION,
IN SAMAYANALLUR POLICE STATION,
CRIME NO.19 OF 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 imposed on the Appellant/Accused No.2, Passed in SC No.43/2016, on the file of the Learned Sessions Judge, Mahila Court, Madurai dated 14/6/2022 and enlarge her on bail pending disposal of the Criminal Appeal.

Prayer in CRL.A.(MD)No.411 of 2022:

To call for the records in S.C.No.43 of 2016 on the file of Learned Sessions Judge, Mahila Court, Madurai, and set aside the order of conviction and sentence dated 14.06.2022.

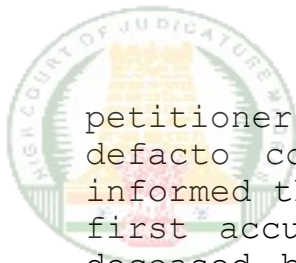
Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.N.ANANTHA PADMANABHAN, Advocate for M/S.APN LAW ASSOCIATES for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

Reserved on : 20.07.2022

Delivered on : 21.07.2022

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Mahila Court, Madurai, in S.C.No.43 of 2016, dated 14.06.2022, till the disposal of the appeal.

2.The case of the prosecution is that the marriage between the first accused and the deceased was solemnized on 25.06.2009; that at the time of marriage the deceased parents had provided 16 sovereigns of jewels and house hold articles worth about Rs.1 lakh; that the couple were living happily for three months; that the second



petitioner/petitioner herein and some others had stolen ear of defacto complainant's daughter weighing about 1/2 sovereign, but informed that as if the same was found missing; that thereafter, the first accused along with other accused had started to harass the deceased by demanding additional dowry and had driven her out of matrimonial home by demanding cash of Rs.1 lakh; that one week thereafter, the defacto complainant and his wife had taken back the deceased to her matrimonial home and informed that they will give Rs.1 lakh after sometime; that the deceased had informed her parents through phone that the accused have been harassing her continuously; that during Valaikappu ceremony five sovereigns of gold bangle of the deceased kept in bureau was found missing and that the accused had harassed her as if the deceased alone had taken the bangle; that the deceased due to mental torture delivered a pre-mature baby and the accused had not even seeing the baby; that subsequently, panchayathars intervened and separate house was arranged; that the accused have again demanded Rs.1 lakh as dowry from the deceased and that due to the continuous mental cruelty and harassment for the demand of dowry of Rs.1 lakh, the deceased, who was upset, had committed suicide by hanging herself on 19.01.2011 in the house of the first accused, FIR came to be registered in Crime No.19 of 2011 for the offence under Section 174 of Cr.P.C and after investigation, the case was altered into Section 304 (B) IPC and under Section 4(b) of TNPHW Act. After completing the investigation, the respondent has laid the final report and the case was taken on file in S.C.No.43 of 2016.

3.During trial, the prosecution had examined 19 witnesses as P.W.1 to P.W.19 and exhibited 11 documents as Ex.P.1 to Ex.P.11. The defence have adduced neither oral nor documentary evidence.

4.The learned Sessions Judge, Mahila Court, Madurai, upon considering the evidence adduced and on hearing the arguments of both the sides has passed the impugned judgment on 14.06.2022, convicting the petitioner/A2 under Section 498(A) IPC and sentenced her to undergo three years rigorous imprisonment and pay fine of Rs.1000/-, in default, six months simple imprisonment; for the offence under Section 304-B IPC and sentenced her to undergo seven years rigorous imprisonment; for the offence under Section 4(B) of TNPHW Act and sentenced her to undergo five years rigorous imprisonment and to pay a fine of Rs.50,000/-, in default to undergo one year simple imprisonment. The petitioner/accused, challenging the above judgment of conviction and sentence, has preferred the appeal along with above application for suspension of sentence.

5. The learned counsel appearing for the petitioner submitted that P.W.1 to P.W.5 are all interested witnesses, who are the parents and other close relatives of the deceased; that all the main witnesses in their evidence have not been whispered anything about the alleged harassment or torture committed by the petitioner and



all a member of the family of the first accused as the first accused and the deceased were residing separately.

6.The learned Additional Public Prosecutor appearing for the State submitted that as per the evidence of P.W.1 to P.W.5, after fourth month of marriage till end, there was continuous harassment for dowry; that there is ample evidence to show that the deceased had committed suicide only due to the continuous harassment and causing cruelty both physically and mentally by both the accused; that the petitioner being a lady did not bother about the physically challenged child and was interested only on money and that there was clear evidence that there was harassment soon before the death of the deceased.

7.Considering the above facts and circumstances of the case and also the seriousness and gravity of the offence alleged and that the petitioner has been in incarceration from the date of judgment i.e., on 14.06.2022, this Court is not inclined to suspend the sentence imposed at this point of time.

8.Accordingly, the Criminal Miscellaneous Petition is dismissed.

sd/-

21/07/2022

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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,
MAHILA COURT, MADURAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
IN SAMAYANALLUR POLICE STATION,
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL.M.P. (MD) No.7628 of 2022
in

CRL.A. (MD) No.411 of 2022

Date :21/07/2022