



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

Wednesday, the Twenty First day of September Two Thousand and Twenty
Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.8446 of 2022

IN

CRL A(MD) No.311 of 2022

1 PERUMAL
2 LINGAPPAN

... APPELLANTS/ACCUSED NO.1 & 2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
M.CHATTRAPATTI (OOMACHIKULAM) POLICE STATION,
MADURAI DISTRICT.
CRIME NO. 360 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 of imprisonment imposed by the Learned Sessions Judge, Mahalir Neethimandram, Madurai in SC.No.80 of 2015 dt.28.2.2022 moreover the appellants not been paid the fine amount Rs.25,000/- each imposed by Honble 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 :

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 M/S.JEYARANI.V, Advocate for the petitioners and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This petition is filed by the petitioners/A1, A2 to suspend the sentence passed in S.C.No.80 of 2015, dated 28.02.2022, on the file of the Sessions Judge, Mahila Court, Madurai.



2.The case of prosecution in brief:

In this case, there are totally four accused. The second accused viz., Lingappan was married to the deceased. The first accused is the father-in-law of the deceased. He himself misbehaved with the deceased and forced her for sexual intercourse. When that was informed to other accused persons, they advised her to adjust with the first accused. They also instigated the deceased to commit suicide. Due to continuous trouble caused by the accused persons, the deceased committed suicide on 02.05.2011.

3.Based upon the complaint given by the defacto complainant, a case was registered. During the course of trial, 14 witnesses have been examined and 13 documents were marked, apart from that, one material object was marked, on the side of prosecution. At the conclusion of trial, the trial Court held that A1 and A2 were found guilty, under Section 306 IPC and thereby they were convicted and sentenced to undergo rigorous imprisonment, for 7 years each and to pay a fine of Rs.25,000/- each. Challenging the same, both the accused persons filed this petition, for suspension of sentence.

4.The learned counsel for the petitioners submitted that no specific date mentioned by the deceased about the sexual torture made by the first accused. Even as per the evidence of PW1, PW2, PW6, there was property dispute between them. The deceased and the second accused were married some 10 years back. However, the allegation of sexual torture had been started two years prior to the occurrence. An admission was made by PW1 that there was dispute with the deceased, in respect of property.

5.Per contra, the learned Additional Public Prosecutor would submit that the allegations were specific and the prosecution proved the same, before the trial Court and the Judgment is of the recent origin and no interference is required.

6.Heard both side. Records perused. Reading of the file shows that at the time of suicide, the daughter of the deceased was also set on fire and both of them died. PW1 has stated that right from the beginning, the first accused was making sexual torture to the deceased and the second accused is the husband, who did not take care, but started to abuse the deceased.

7.The suggestion is being made to the fact that because of property dispute between the deceased and her sister, the above said suicide was committed. I find that the contradictions set out by the petitioner, can be a matter for consideration, at the time of appeal. Since the offence is serious in nature, there is allegation of sexual torture to the deceased by the first accused and the Judgment is of the recent origin, it is not a fit case, to exercise the power to suspend the sentence and this petition deserves to be dismissed.



CRL MP(MD)



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8. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
21/09/2022

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/09/2022

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

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, MADURAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
M.CHATTRAPATTI (OOMACHIKULAM) POLICE STATION,
MADURAI DISTRICT.

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

ORDER
IN
CRL MP (MD) No.8446 of 2022
IN
CRL A (MD) No.311 of 2022
Date :21/09/2022

PNM
RS/VR/SAR.1 (23.09.2022) 3P-5C