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CRL MP(MD)



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

Tuesday, the Twentieth day of September Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.9020 of 2022
in CRL A(MD) No.328 of 2022

SENTHILPANDI

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUNAGAR POLICE STATION,
THIRUPARANKUNDRAM DIVISION,
MADURAI CITY.
CRIME NO.578 OF 2012.

... RESPONDENT/RESPONDENT

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 Petitioner in SC.No.517 of 2016 dt.7.3.2022 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and enlarge him on bail pending disposal of the appeal.

Prayer in CRL A(MD).328 of 2022 :

To call for the records and set aside the order of conviction and sentence passed in S.C.No.517/2016 dated 07.03.2022 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and allow this appeal and acquit the Appellants/Accused from the charge leveled against the petitioner.

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.SELVARAJ R, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Crl.Side) 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 Sessions Judge, Mahalir Neethimandram, Madurai, in S.C.No.517 of 2016, dated 07.03.2022 and enlarge the petitioner on bail, pending disposal of the Appeal.

2.The case of the prosecution is in brief:-

(i) The marriage between the accused No.1 and his wife was performed on 31.05.2012. At the time of marriage, she was provided with sufficient jewelry, cash etc., After that, they were residing in Harvipatti, Madurai. 10 days prior to the death, the accused alleged to have demanded Rs.1 lakh as dowry to settle the loan and thereby, subjected the deceased to harassment. On 27.09.2012, the

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brother of the deceased went to the house of the accused and convinced them that they will give money within a short time. At that time, the accused told her brother that if the money is not given, the deceased must be taken back. Because of the above said issue, the deceased became depressed. So, she committed suicide on 28.09.2012 by pouring kerosene and set fire on her own.

(ii) On the basis of the above said occurrence, case was registered. During the course of trial, on the side of the prosecution, 13 witnesses have been examined and 13 documents were marked, apart from 2 Material Object. On the side of the defence, 3 documents were marked.

(iii) At the conclusion of trial, the Trial Court found that there was dowry harassment. Hence, convicted the first accused namely, the husband and sentenced him to undergo 10 years Rigorous Imprisonment for the offence under Section 304(B) IPC and convicted and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.25,000/- in default to undergo 6 months Simple Imprisonment for the offence under Section 498(A) IPC. So, challenging the conviction and sentence, this appeal has been preferred by the accused. Pending appeal, this petition has been filed.

3.The learned counsel for the petitioner would submit that the demand of dowry was not properly established during the course of trial. Even in the report submitted by the RDO, there is no indication of the above said demand. There were 2 complaints given by the deceased prior to her death. That two complaints have been suppressed. P.W.1 to P.W.3 are having contradictory version that because of the childless nature, the deceased was under depression, P.W.1 was not examined by RDO. He relied upon the page No.94 in the typed set of papers, which is the evidence of the Doctor.

4.Per contra, the Government Advocate (Crl.Side) would submit that there was continuous harassment by demanding Rs.1 lakh. Because of the above said continuous harassment only, the deceased committed suicide. The case has been proved beyond all reasonable doubts. So, the suspension of sentence to the petitioner may not be entertained.

5.Heard both sides.

6.The marriage took place on 31.05.2012. Suicide occurred on 28.09.2012 within a period of 4 months. So, in the complaint, the brother of the deceased stated that the accused person demanded Rs.1 lakh for the purpose of discharging loan. Because of the above said issue, he was not talking to the deceased. So, he went to the house and pacified them. It is also seen that the deceased was invited by the accused to Thanjavur for livelihood. But, that was not liked by the deceased. But, the deceased wanted to shift to Kappalur, Madhavaram and reside along with the defacto complainant's family.



But, that was not liked by the husband namely, the petitioner herein. So, it is seen that not only demand of money issue dispute existed between them over the shifting of the residence also.

7. Some sort of issue exist between the parties over non procreation of child within 4 months. P.W.2, the father of the deceased has completely given a different version. He stated that when they visited the hospital, the deceased was conscious and on enquiry, she told that she was tortured by the accused for non procreation of child even after a lapse of 4 months of marriage. Because of the above said issue also she was mentally depressed. Apart from that, whether there was any loan to the family also there is no evidence on record.

8. In the light of the above said contrary version with regard to the cause of the suicide and also considering the fact that even though the above said occurrence took place in the year 2012, the trial is dragged on all these years, this Court is inclined to suspend the sentence pending disposal of the appeal.

9. Accordingly, the suspension of sentence 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 execute 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 Sessions Judge, Mahalir Neethimandram, Madurai, and on further condition that the petitioner shall appear before the said Court **once in a week at 10.30 a.m** pending appeal.

sd/-

20/09/2022

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21/09/2022

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

TO

- 1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM, MADURAI.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE, THIRUNAGAR POLICE STATION, THIRUPARANKUNDRAM DIVISION, MADURAI CITY, MADURAI.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.R.SELVARAJ, Advocate (SR-10264[I] dated 20/09/2022)

ORDER IN

CRL MP(MD) No.9020 of 2022
in CRL A(MD) No.328 of 2022
Date :20/09/2022

dss

RS/VR/SAR.3 (21.09.2022) 3P-6C

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