



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

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

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP (MD) No.9133 of 2022

IN

CRL A (MD) No.13 of 2022

DINESH @ DINESHWARAN

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
REGUNATHAPURAM POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO.70/2012

... RESPONDENT / RESPONDENT

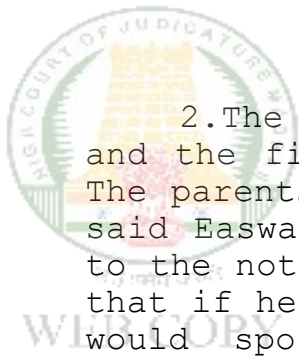
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to allow the appeal and acquit the appellants by setting aside the judgment dt. 28.12.2021 in S.C no. 61 of 2020 on the file of the Learned Sessions Judge (Full Additional Charge), Mahila court, Pudukkottai.

Prayer in CRL A(MD) No.13 of 2022:

To call for the records and to allow the appeal and acquit the appellants by setting aside the judgment dated 28.12.2021 in S.C.No.61 of 2020 on the file of the Learned Sessions Judge (Full Additional Charge), Mahila Court, Pudukkottai.

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.GANAPATHI SUBRAMANIAN.P, Advocate for the petitioner and of MR.S.MANIKANDAN, 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 against the petitioner in S.C.No.61 of 2020, dated 28/12/2021 by the Sessions Judge, (Full Additional Charge), Mahila Court, Pudukkottai and enlarge the petitioner on bail pending disposal of the criminal appeal.



2.The case of prosecution is that the deceased by name Easwari and the first accused were in love with each other for some-time. The parents of above said Easwari gave consent for giving the above said Easwari in marriage to one Rameshkumar. When that was brought to the notice of first accused, he made a threat to Easwari stating that if her parents try to get her married to some other person, he would spoil her life. That threat was made, on 13.11.2012. Similarly, threat was made to the de-facto complainant and her husband. At that time, the second accused also went to the house of de-facto complainant, shouted and talked badly about Easwari and her family members. This caused mental stress to the deceased Easwari. Due to the said situation, the above said Easwari, committed suicide, on the same day in the night. Based upon the complaint given by the de-facto complainant, investigation has been conducted and filed a final report implicating two accused persons as accused. To prove the prosecution case, 7 witnesses have been examined and 12 documents were marked, apart from that no material object was exhibited. On the side of the accused, no witness or document had been adduced.

3.At the conclusion of trial, the trial Court found that the case against both the accused proved and convicted this petitioner/A1 and sentenced to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.50,000/- with default clause for the offence under section 306 IPC. Challenging the same, the first accused has filed the appeal. Pending appeal, this miscellaneous petition is filed seeking suspension of sentence.

4.Earlier petitions that were filed by the petitioner came to be dismissed thrice. This is the fourth petition in line.

5.The learned counsel for the petitioner would submit that ever-since from the date of judgment, the petitioner/A1 is in custody I.e, from 28.12.2021. There are material contradictions between the evidence of PW1 and PW2.

6.Per contra, the learned Government Advocate (Criminal side) would submit that the prosecution has proved the case before the trial Court beyond all reasonable doubt and there is no material contradiction between PW1 and PW2.

7.Reading of evidence of PW1 shows that she was not liking the love affair between the petitioner and the deceased. At one point of time, even suspected that this petitioner would have kidnapped the deceased. PW2 has stated that on 13.11.2012, this petitioner made a threat that he will kill the parents to marry the deceased. Thereafter, only the second accused scolded the mother viz., PW1 over the above said issue. Pointing out this contradiction, the learned counsel appearing for the petitioner would submit that in view of the above said inconsistent case and considering the incarceration period, suspension of sentence may be considered for this petitioner.



8. Even though, there is evidence to show that because of the above said threat, that was made by the petitioner, the deceased committed suicide, circumstance clearly shows that they were love with each other for some time, but however, marriage proposal was made to the deceased with some other person and that was not liked by the petitioner. Only on that ground, this petitioner along with his mother alleged to have made threat to the parents of the deceased as well as the deceased about the proposal and not to marry some other person over with above said issue, the deceased committed suicide. So the question arises for consideration in this appeal is whether the circumstance, that has been created by the accused persons were sufficient enough to drive the deceased to commit suicide is the only point to be decided. It is seen from the records that repeated miscellaneous petitions that have been filed by the petitioner came to be dismissed by this court.

9. But however, considering the duration of the custody of the petitioner and also considering the fact that it will take time to hear the main appeal for disposal, I am inclined to enlarge the petitioner on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) 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 District Munsif-cum-Judicial Magistrate, Alangudi, Pudukkottai; and

(ii) on further condition that the petitioner shall appear before the said Court once in a week i.e., on the first working day of every week at 10.30 am pending appeal.

sd/-

21/09/2022

/ TRUE COPY /

21/09/2022

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



TO

1 THE SESSIONS JUDGE,
(FULL ADDITIONAL CHARGE),
MAHILA COURT, PUDUKKOTTAI.

2 THE DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, ALANGUDI, PUDUKKOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
PUDUKKOTTAI DISTRICT.

4 THE INSPECTOR OF POLICE
REGUNATHAPURAM POLICE STATION, PUDUKKOTTAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-10332[I] dated
21/09/2022)

ORDER
IN
CRL MP (MD) No.9133 of 2022
IN
CRL A (MD) No.13 of 2022
Date :21/09/2022

MK/VR/SAR.III/21.09.2022/4P/8C