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CRL MP(MD) A



22

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

Monday, the Twenty Eighth day of November Two Thousand and Twenty
Two

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH

and

The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.11347 of 2022

IN

CRL A(MD) No.576 of 2022

SHANMUGAM

... PETITIONER/APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
C3.S.S.COLONY (L AND O) POLICE STATION,
MADURAI.
(CR NO.518/2016)

... 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 Petitioner / Appellant herein by the court of Sessions, Mahalir Neethimandram, Madurai by judgment dated 12.04.2022 and made in Sessions Case No.19 of 2017 and enlarge him on bail pending disposal of the above criminal appeal.

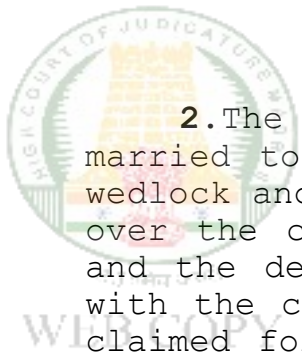
Prayer in CRL A(MD).576/2022 :

To call for records and set aside the judgment of the lower court made in Sessions Case No.19 of 2017 on the file of the Court of Sessions Judge, Mahalir Neethimandram, Madurai dated 12.04.2022 and acquit the Appellant herein from the above said charges.

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.S.ANANTHA NARAYANAN, Senior Counsel for M/S.SANKARA PANDIAN.J, Advocate for the petitioner and of MR.S.MEENAKSHI SUNDARAM, Additional Public prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by N. ANAND VENKATESH, J.)

This petition has been filed by A2, who was convicted for the offence under Sections 120B and 302 of IPC and was sentenced to undergo life imprisonment for each offence and also to pay a fine of Rs.10,000/- for each offence and in default, to undergo one year simple imprisonment for each offence.



2.The case of the prosecution is that the daughter of [REDACTED] is married to A1 on 29.10.2001. They had three children out of the wedlock and they were residing in Chennai. A1 developed a suspicion over the conduct of the deceased and there was a misunderstanding and the deceased came over to her parents' house at Madurai along with the children. The deceased also filed a divorce petition and claimed for maintenance for herself and her children. In view of the same, there was previous enmity between A1 and the deceased and it is alleged that A1 hatched a conspiracy along with A2 and A3 to do away with the deceased.

3.On 03.05.2016, the deceased came to the Family Court and she returned back home at about 11.45 a.m. She was proceeding towards her house and at that point of time, A2 and A3 are said to have come in a motorbike and A2 threw chilly powder on the face of the deceased and A3 poured petrol on her from a bucket. Thereafter, A3 threw a burning torch against the deceased. The deceased was engulfed with fire and A1 is said to have shouted at her that she should die. The deceased succumbed injuries.

4.Heard the learned Counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police.

5.The only person, who is said to have identified the petitioner / A2 was PW3. This witness did not support the case of the prosecution and turned hostile. The Court below, in order to convict and sentence the petitioner, mainly relied upon the recovery (MO6 and MO70), after the petitioner was arrested. The Court below also commented upon the conduct of A2 not appearing, when PW1 and PW14 deposed. PW1 to PW14 were not eye-witnesses and hence, they could not have identified the petitioner in the dock.

6.In the considered view of this Court, a prima facie case has been made out and the petitioner has already suffered incarceration for nearly seven months and there are no bad antecedents against the petitioner. It will also take some more time for this Court to take up the appeal for hearing. In view of the same, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.19 of 2017 dated 12.04.2022 subject to the following conditions:-

- (i) The petitioner shall pay the fine amount of Rs.10,000/- as imposed by the Court below, if not paid;



(ii) The petitioner shall execute bond for a sum of Rs.25,000/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Additional Mahila Court, Madurai;

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(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar cards or Bank pass Books to ensure their identity; and

(iii) The petitioner 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 petitioner shall report before the learned Judicial Magistrate, Additional Mahila Court, Madurai, on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

sd/-

28/11/2022

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30/11/2022

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

TO

- 1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM, MADURAI.
- 2 THE JUDICIAL MAGISTRATE, ADDITIONAL MAHILA COURT, MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, MADURAI.
- 4 THE INSPECTOR OF POLICE, C3.S.S.COLONY (L AND O) POLICE STATION, MADURAI.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.SANKARA PANDIAN, Advocate (SR-13906[I] dated 29/11/2022)

ORDER IN

CRL MP(MD) No.11347 of 2022

IN CRL A(MD) No.576 of 2022

Date :28/11/2022

SM

RS/VR/SAR. (30.11.2022) 3P-8C

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