



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the First day of December Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and
The Hon`ble Mr.Justice N.ANAND VENKATESH

CRL MP(MD) No.12067 of 2022
in
Crl.A.(MD) No.628 of 2022

VELANKANNI @ MATHI

... APPELLANT/PETITIONER

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
ILLUPUR POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO.350 OF 2021.

... RESPONDENT/RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to order to suspend the sentence of imprisonment for life for offences under section 302 IPC and to pay fine Rs.10,000/- (Rupees Ten thousand only) in default of fine amount to undergo 5 years Simple Imprisonment imposed on the appellant by the learned Principal District and Sessions Judge, Pudukkottai by his Judgment dated 03.08.2022 in S.C.No.108/2021, pending disposal of this Criminal Appeal.

Prayer in Crl.A.(MD) No.628 of 2022 :

Pleased to call for the records and allow the appeal and acquit the accused by setting aside the judgment dated 03.08.2022 in S.C.No.108 of 2021 on the file of the learned Principal District and Sessions Judge, 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.A.THIRUVADI KUMAR, 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

The petitioner herein, who was convicted for offence under Section 302 IPC and sentenced to undergo life imprisonment and to pay fine of Rs.10,000/-, in default to undergo simple imprisonment for five years, by judgment and order dated 03.08.2022 passed in S.C.No.108 of 2021 on the file of the Principal District and Sessions Judge, Pudukottai, has filed the above criminal appeal. Pending appeal, the present petition has been filed to suspend the sentence and to enlarge the petitioner on bail.

2. The case of the prosecution is that there was a misunderstanding between the petitioner and his wife (deceased). The petitioner is said to have developed an intimacy with another woman and this was questioned by the deceased. On 31.07.2021, at about 8.00 p.m., the petitioner is said to have entered the house in an inebriated condition and had developed a wordy quarrel with the deceased. As a consequence, the petitioner is said to have poured kerosene on the deceased and set her on fire. The deceased succumbed to the burn injuries on 08.08.2021 at about 11.40 p.m.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

4. The entire case of the prosecution hinges upon the dying declaration given by the deceased and the evidence of P.W.2 and P.W.3, who are the parents of the deceased. The petitioner has projected a case of self-immolation and to substantiate the same, the learned counsel for the petitioner brought to our notice the dying declaration. On carefully going through the same, there is no mention as to who had set the deceased on fire and it has been merely mentioned that the petitioner had poured kerosene on the deceased. The name of the person that has been mentioned in the dying declaration as "Selvam Magal" (செல்வம் மகன்) has not been examined in this case. That apart, there is also a mention to the effect that the neighbours had also shouted on seeing the deceased. However, not a single neighbour was examined in this case and the dying declaration of the deceased is said to be corroborated by the evidence of P.W.2 and P.W.3. Yet another factor that has been put against the petitioner is that he did not give proper explanation when he was questioned under Section 313 (1)(b) of the Code of Criminal Procedure.

5. Taking into consideration the facts and circumstances of the case and also the fact that a prima facie case has been made out and there are no bad antecedents against the petitioner, this Court is inclined to consider suspension of sentence for the petitioner. There are various grounds that have to be taken into consideration in the present criminal appeal and it will take some more time for this Court to hear the appeal finally.



6. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.108 of 2021 dated 03.08.2022 subject to the following conditions:

- (i) The petitioner shall pay the fine of Rs.10,000/- imposed by the trial Court vide judgment dated 03.08.2022.
- (ii) The petitioner shall execute a 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 District Munsif cum Judicial Magistrate, Illupur;
- (iii) 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 card or Bank pass Book to ensure their identity; and
- (iv) The petitioner shall appear before the concerned Court once in fortnight 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.

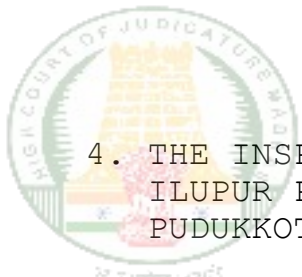
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01/12/2022

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/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
PUDUKKOTTAI.
2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ILLUPUR.
3. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
PUDUKKOTTAI DISTRICT.



4. THE INSPECTOR OF POLICE,
ILUPUR 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-14192[I] dated
01/12/2022)

+1 CC to M/s.P.GANAPATHI SUBRAMANIAN, Advocate (SR-14367[I] dated
05/12/2022)

ORDER IN
CRL MP(MD) No.12067 of 2022
in
Crl.A.(MD) No.628 of 2022
Date :01/12/2022

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USK/SSS/SAR-I/02.12.2022/4P/9C