



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

Wednesday, the Nineteenth day of October Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.12451 of 2022

IN

CRL A(MD) No.411 of 2022

RAJASEKARAN

... PETITIONER/APPELLANT/ACCUSED NO.1

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUBDIVISION,
SAMAYANALLUR POLICE STATION,
CRIME NO.19/2011.

... 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/appellant/accused no.1 passed in SC no.43/2016 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai dt.14/6/2022 and enlarge the petitioner on bail pending disposal of the instant criminal appeal.

Prayer in CRL A(MD)No.411 of 2022 :

To call for the records in S.C.No.43 of 2016 on the file of Learned Sessions Judge, Mahila Court, Madurai and set aside the order of conviction and sentence dated 14.06.2022.

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.N.ANANTHAPADMANABAN, Advocate for M/S.APN LAW ASSOCIATES for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor 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.43 of 2016, dated 14.06.2022 and enlarge the petitioner on bail, pending disposal of the main appeal.

2.The case of the prosecution is that the de-facto complainant, who is the father of the deceased Preetha lodged a complaint stating that the marriage between his daughter and petitioner/A1 was performed, on 25.06.2009. At the time of marriage, she was provided with 16 sovereigns of gold jewels and house-hold articles worth about Rs.1,00,000/-. After the marriage, they were living happily for three months. While so, the ear ring of his daughter was found missing. So the accused persons harassed his daughter by demanding

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demanding Rs.1,00,000/-. After that, the de-facto complainant went back to her matrimonial home by saying that they will arrange Rs.1,00,000/- after some time. Even thereafter the torture continued. So the deceased informed her parents through phone that the accused have been harassing her continuously and during Valaikattu ceremony five sovereigns of gold bangle of the deceased, which was kept in the bureau was found missing and the accused persons harassed her as if she alone taken the bangle and the accused had not even seeing the baby; Subsequently panchayat was held and separate house was arranged, but also again torture continued. So the deceased committed suicide by hanging herself, on 19/01/2011. Based on the complaint given by the de-facto complainant, FIR came to be registered in Crime No.19 of 2011 under section 174 Cr.P.C. After investigation, the case was altered into section 304(B) IPC and under section 4(b) of TNPHW Act. On the side of the prosecution, 19 witnesses were examined and 11 documents were marked. On the side of the accused, neither oral evidence nor documentary has been adduced.

3.At the conclusion of the trial, the trial court found the petitioner/A1 guilty and sentenced her to undergo 3 years R/I and pay fine of Rs.1000/- with default clause for the offence under section 498(A) IPC; and 7 years R/I for the offence under section 304(B) IPC and five years R/I and to pay a fine of Rs.50,000/- with default clause for the offence under section 4(B) of TNPHW Act. Challenging the above said conviction and sentence, criminal appeal has been preferred before this court. Pending appeal, this miscellaneous petition has been seeking suspension of sentence.

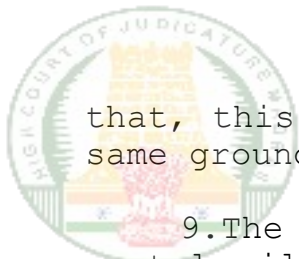
4.Heard both sides.

5.Crl.M.P(MD).No.10879 of 2022 was filed by the mother of the petitioner/A1 and the same was allowed by this Court on 16.09.2022 and the above set of facts have been detailed.

6.On perusal of the trial Court order, it seen that a trouble arose between the two family members, namely, the petitioner's family as well as the deceased family with regard to the missing of gold jewelry. Later, there was a compromise between the husband/petitioner and wife/deceased and thereafter, they were living separately.

7.The case of the prosecution is that there was a demand of Rs.1,00,000/-(Rupees One Lakh only) as a dowry from the deceased by the petitioner and his mother/A2, this was caused the above said suicide.

8.I find that this petitioner and the victim/deceased were living separately, at the time of the occurrence. The involvement of the second accused was doubted and considering the above said facts, the petitioner was enlarged on bail. Subsequent to



that, this petition came to be filed by this petitioner on the same ground that absolutely there was no dowry and harassment.

9. The deceased/wife is undergoing some sort of physical and mental ailment and the deceased was under deep stress, because of that only, she committed suicide. This defence was rejected by the trial Court and this is the matter for consideration in the appeal. Even though, the judgment of the conviction has been rendered recently, from the facts and the circumstances of this case, what went wrong between the deceased and the petitioner during the separate living is the matter for consideration in the appeal.

10. Considering the period of incarceration and in the light of above discussion, this Court is inclined to suspend the sentence imposed upon the petitioner.

11. 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/-

19/10/2022

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19/10/2022

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, SAMAYANALLUR SUBDIVISION,
SAMAYANALLUR POLICE STATION, MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.APN LAW ASSOCIATES, Advocate (SR-11680[I] dated
19/10/2022)

ORDER IN

CRL MP(MD) No.12451 of 2022

IN CRL A(MD) No.411 of 2022

Date :19/10/2022

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<https://www.cbi.gov.in> (19.10.2022) 3P-6C