



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

Thursday, the Sixth day of January Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.11832 of 2021

IN

CRL A (MD)No.474 of 2021

SIVARAJA

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
KA. VIZHAKU POLICE STATION,
THENI DISTRICT.
(CRIME NO.51/2012)

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order of suspend the sentence, to suspend the sentence, imposed on the petitioner vide judgement dated 28.10.2021 made in S.C.No.114/2015 on the file of the learned Fast Track Mahila Court, Theni, pending disposal of the above criminal appeal.

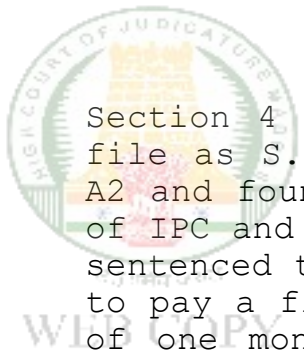
PRAYER IN CRL A(MD)No.474 of 2021:

To call for the entire records in relating to the impugned conviction judgment dated 28.10.2021 made in S.C.No.114 of 2015 on the file of the learned Fast Track Mahila Court, Theni and to set aside the same and consequently to acquit the appellant.

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.M.S.JEYAKARTHIK, Advocate for the petitioner and of Mr.K.SANJAY GANDHI, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Judge, Fast Track Mahila Court, Theni, in S.C.No.114 of 2015 dated 28.10.2021, till the disposal of the appeal.

2.The case against the petitioner is that the petitioner and his family members demanded dowry and harassed the deceased Kiruba and abated her death. A case in Crime No.51 of 2012 was registered against the petitioner under Sections 302(B), 498(A) IPC and under



Section 4 of Dowry Prohibition Act and the same case was taken on file as S.C.No.114 of 2015. After trial, the trial Court acquitted A2 and found the petitioner guilty under Sections 498(A) and 304(B) of IPC and under Section 4 of Dowry Prohibition Act. The trial Court sentenced the petitioner to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- in default, to undergo a further period of one month simple imprisonment under Section 498(A) of IPC and sentenced him to undergo simple imprisonment for one year and to pay fine of Rs.1,000/- in default to undergo a further period of one month simple imprisonment under Section 4 of Dowry Prohibition Act and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo one year simple imprisonment under Section 304(B) of IPC. Against the conviction and sentence, the petitioner filed an appeal in Crl.A.(MD)No.474 of 2021. Along with the appeal, the petitioner has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the trial Court failed to consider the evidence in the cross examination of the witnesses. There are contradictions in the evidence. P.W.17 has deposed that there was no signature found in the letter alleged to have been written by the deceased. There is no evidence in the statement of the Revenue Divisional Officer regarding dowry harassment. P.W.1 to P.W.11 are relatives and friends. All the witnesses belong to the village of P.W.1. No witness was examined from the place of occurrence. The earlier complaint filed by the complainant was not produced by the prosecution. The suicide note was not recovered from the place of occurrence. The suicide note is not trust worthy. The petitioner has to take care of the female child. The petitioner has purchased the land in the name of the deceased, which reveals that there was no dowry harassment and prayed to suspend the sentence imposed on the petitioner.

4.On the side of the prosecution, it is stated that totally four accused involved in the case. A3 and A4 died during the pendency of the case. A2 was acquitted of the charges. The prosecution has examined 23 witnesses and marked 12 documents and proved the case beyond reasonable doubts. The suicide note clearly reveals the dowry harassment and the learned Government Advocate seriously objects to grant suspension of sentence to the petitioner and prayed the petition to be dismissed.

5.Considering the period of incarceration and considering that there are some arguable points for consideration in the main appeal and also considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on

<https://hdcres.courts.gov.in/hoservices> conditions:-



(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judge, Fast Track Mahila Court, Theni.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iii) The petitioner shall appear before the trial Court daily at 10.30 a.m., until further orders.

sd/-

06/01/2022

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06/01/2022

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

TO

- 1 THE JUDGE
FAST TRACK MAHILA COURT, THENI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
KA. VIZHAKU POLICE STATION,
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP(MD) No.11832 of 2021
IN
CRL A (MD) No.474 of 2021
Date : 06/01/2022

SA/PN/SAR.1/06.01.2022/3P/5C