



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

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

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.11451 of 2021
IN
CRL A(MD) No.413 of 2021

DURAI PANDI ... PETITIONER/APPELLANT/ ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
B-1,VILLAKKUTHON POLICE STATION,
MADURAI.
(IN CRIME NO.846 OF 2010) ... RESPONDENT/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 and conviction made in the Judgment in Sc.No.134 of 2012 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai dated 21.9.2021 and enlarge us on bail.

PRAYER IN Crl.A.(MD)No.413 of 2021:

To call for the judgment dated 21.09.2021 made in S.C.No.134 of 2012 on the file of the Sessions Judge, Mahalir Neethimandram, Madurai and set aside the same.

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.ANANDAKUMAR, 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 Sessions Judge, Mahalir Neethimandram, Madurai, in S.C.No.134 of 2012, dated 21.09.2021, till the disposal of the appeal.

2.The offence against the petitioners is that they instigated the deceased to commit suicide. A case under Section 306 IPC was registered in Crime NO.846 of 2010 and the case was taken on file as Sessions case No.138 of 2012 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai. The trial Court found the accused No.1 guilty under Section 306 IPC, convicted and sentenced him to undergo 7 years rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo 6 months simple imprisonment and

<https://hcservices.court.gov.in/hcservices>



sentenced her to undergo 5 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo 6 months simple imprisonment. Against the conviction and sentence the accused persons filed an appeal in Crl.A.(MD).No.413 of 2021. The petitioner filed this petition for suspension of sentence.

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3.The petitioner is Accused No.1 in the case. On the side of the petitioner, it is staged that the petitioner and Accused No.2 had already filed a petition for suspension of sentence in Crl.M.P.(MD).No.8104 of 2021 and the sentence against the Accused No.2 was suspended by this Court on 29.10.2021. The petition against the Accused No.1 was dismissed as withdrawn. Now the petition was filed by the Accused No.1.

4.On the side of the petitioner it is further stated that the deceased was the wife of the petitioner. He got married her in the year 2001. There was no dowry demand. Accused No.2 is the sister of Accused No.1. The wife was already undergoing treatment for depression. The prosecution witnesses did not support the case of prosecution. Even in the dying declaration the deceased has stated that her sister-in-law beaten her and there was no suggestion regarding any dowry demand. Only a family quarrel was mentioned. The deceased was undergoing treatment for depression for six months prior to the date of occurrence. Accused No.1 was not even present at the time of occurrence. There was no question of dowry demand after a lapse of 10 years from the date of marriage. The petitioner is in custody for past four months and prayed for the sentence to be suspended.

5.On the side of the prosecution it is stated that the petitioner is the prime accused, who is the husband of the deceased. The petitioner used to come in a drunken mode and tortured the deceased. Only due to the harassment of the petitioner, the deceased has committed suicide. PW9 has deposed regarding the recording of dying declaration. The prosecution has examined 16 witnesses and marked 11 documents and proved the case beyond reasonable doubts and prayed the petition to be dismissed.

6.It is seen that the petitioner is the prime accused. The offence is serious in nature. The judgment was pronounced only on 21.09.2021. Considering the seriousness of the offence and considering the period of incarceration this Court is not inclined to suspend the sentence at the present. Hence, this criminal miscellaneous petition is dismissed.

sd/-
19/01/2022

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



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.
- 2 THE INSPECTOR OF POLICE
B-1, VILLAKKUTHOON POLICE STATION, MADURAI.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.11451 of 2021
IN
CRL A (MD) No.413 of 2021
Date :19/01/2022

TM
MK/VR/SAR.IV/25.01.2022/3P/5C