



CRL.M.P. (MD) No.14072 of 2022
in
CRL.A. (MD) No.774 of 2022

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G.ILANGO VAN, J.

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in S.C.No.133 of 2013, dated 13/09/2022 by the Sessions Fast Track Mahila Court, Kanyakumari @ Nagercoil and enlarge the petitioner on bail pending disposal of the criminal appeal.

2.The case of the prosecution in brief:-

The marriage between A1 and the deceased Ajitha took place, on 14/09/2005. After marriage, two children were also to them. Later, trouble started between them and since A1 and A2 took the jewels and other things of the deceased and handed over the same, on 19/09/2012 at about 3.00 am. A demand was made by A1 to bring Rs.3,00,000/- from the parental house of the deceased and she was also threatened. However, she could not bring the money. On 20/09/2012 at about 8.30 hours, again both the accused asked the Ajitha, why she has not brought the money. She was also ill-treated mentally. Because of the above said harassment and instigation, the deceased took her two



children along with her. On 20/09/2012, she pushed the two children in front of the running train, she followed them.

She died on the spot, so also one child. Another children was taken to the hospital, where she was also died. Based upon the above said occurrence, the case was registered and after completing the formalities of the investigation, final report has been filed.

3.To prove the prosecution, totally 33 witnesses examined, 31 documents were marked and three material objects were exhibited. On the side of the accused, one witness was examined and one document was marked.

4.At the conclusion of the trial, the trial court convicted and sentenced him to undergo two years of rigorous imprisonment and imposed a fine of Rs.5,000/-, in default to undergo simple imprisonment for 6 months for the offence under section 498(A) IPC; and 10 years of rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months simple imprisonment for the offence under section 306(A) IPC and two years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months simple imprisonment for the offence under section 4 of the Dowry Prohibition Act. The sentences are directed to run concurrently.



5. Now seeking in order to set aside the above sentences, appeal has been preferred by A2. Pending appeal, this criminal miscellaneous petition has been filed seeking suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that in so far as this petitioner is concerned, he is noway connected with A1 and the deceased and no specific overtact has been attributed against him also. As per the evidence of PW3, on 19/09/2012, the deceased went to her house and gifted the bangles to the newly born child. So also PW14 has also given such a statement. DW3 was examined. He has stated that this petitioner is working as Assistant Professor in the Department of Electronics and Electrical in the Udhaya College. By producing the attendance register, he has stated that on 20/09/2012, this petitioner was attending the college duty. So this has been pointed by the learned counsel appearing for the petitioner to say that the prosecution showing that on 20/09/2012 in the morning, both the accused asked why she has not brought the money is not believable.

7. The date of occurrence, is 20/09/2012. But from the evidence of DW1, it is seen that this petitioner was working in the above said college. How the above said money



was demanded by this petitioner joining hands with A1 is a matter for consideration in the appeal.

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8.Considering the above said aspect and also the period of incarceration of the petitioner and also considering the fact that no bad antecedent is reported against the petitioner and also considering the fact that it will take some-time to hear the main appeal for disposal, I am inclined to enlarge the petitioner on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)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 Sessions Fast Track Mahila Court, Kanyakumari District @ Nagercoil; and



(ii) on further condition that the petitioner shall appear before the said Court daily at 10.30 am pending appeal.

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02.12.2022

Index : Yes/No
Internet : Yes/No
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To,

The Additional Superintendent of Prison,
Central Prison,
Palayankottai.



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