



Crl.MP.No.6502/2023 in Crl.A.No.531/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.10.2023

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.6502/2023 in Crl.A.No.531/2023

S.Kappaldurai .. Petitioner

Versus

State rep.by
The Inspector of Police
Thiyagathuruvam Police Station
Kallakurichi Taluk, Villupuram District. .. Respondent

Prayer:- Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in SC.No.127/2016 dated 11.08.2021 on the file of the learned Sessions Judge, Magalir Neethimandram (FT Mahila Court), Villupuram and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mrs.D.Chandrleka

For Respondent : Mr.A.Gokulakrishnan



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Crl.MP.No.6502/2023 in Crl.A.No.531/2023

Additional Public Prosecutor



Crl.MP.No.6502/2023 in Crl.A.No.531/2023

ORDER

[Order of the Court was made by S.S.SUNDAR, J]

(1) This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 11.08.2021 passed in S.C.No.127/2016 on the file of the learned Sessions Judge, Magalir Neethimandram (FT Mahila Court), Villupuram, and to enlarge the petitioner on bail pending disposal of the appeal.

(2) The petitioner, who is the sole accused in the above Sessions Case, was convicted under Sections 302 IPC and 302 r/w 201 IPC and sentenced to undergo life imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months simple imprisonment, for the offence under Section 302 IPC and was sentenced to undergo six months simple imprisonment and to pay a fine of Rs.3,000/-, in default to undergo simple imprisonment for one month, for the offence under Section 302 IPC r/w 201 IPC.

(3) Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he is seeking suspension of sentence and



bail in the present petition.

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(4) Heard the learned counsel for the petitioner [sole accused] and Mr.A.Gokulakrishnan, learned Additional Public Prosecutor appearing for the respondent/State.

(5) The case of the prosecution is that the petitioner, who is the husband of the deceased, planned to kill his wife and took his wife to a secluded place and caused murder by giving a strong blow on the stomach of his wife by his hand. A case was registered in Cr.No.100 of 2015 under the head, 'woman missing' on the complaint given by the mother of the deceased and later, during the course of investigation, the petitioner was arrested on the basis of his own confession statement. The case of the prosecution rests on circumstantial evidence. It is alleged that the petitioner suspected the fidelity of the wife/deceased and hence, he had a motive to cause death of the deceased. It is also alleged that the deceased was last seen in the company of the accused on 09.05.2015, which was spoken to by PW4.



Crl.MP.No.6502/2023 in Crl.A.No.531/2023

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(6) Though several grounds have been raised by the petitioner herein, the learned counsel for the petitioner submitted that the prosecution case is based on the circumstantial evidence and the main circumstance relied upon by the prosecution is the extra-judicial confession given by the petitioner herein to the Village Administrative Officer [PW5]. Yet another circumstance relied on by the prosecution is that the deceased was last seen in the company of the accused person by P.W.4. Learned counsel further submitted that there was no necessity for the appellant to give a confession and hence, it is not voluntary ; that since the extra-judicial confession is a weak piece of evidence and the other circumstances have not been conclusively proved to connect the accused with the crime, the sentence imposed on the petitioner may be suspended.

(7) Heard the learned Additional Public Prosecutor who vehemently opposed for grant of the relief of suspension of sentence to the petitioner herein as there are specific overt acts against the petitioner herein. Further, the motive for committing the crime is also proved by the prosecution and that the prosecution has proved its case beyond reasonable doubt and



Crl.MP.No.6502/2023 in Crl.A.No.531/2023

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hence, prayed for dismissal of the petition.

(8)Considering the above and the lack of cogent evidence connecting the petitioner with the murder; and the petitioner is undergoing incarceration right from 11.08.2021 and taking into consideration the fact that the appeal is not likely to be taken up for final hearing in the near future, we are of the considered view that it is a fit case to grant the relief of suspension of sentence to the petitioner herein.

(9)Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence of imprisonment is **suspended** and the sentence imposed on the petitioner is suspended on the following conditions:

- (i) 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 Sessions Judge, Magalir Neethimandram (FT Mahila Court), Villupuram ;
- (ii)The petitioner and the sureties shall affix their photographs and Left



Crl.MP.No.6502/2023 in Crl.A.No.531/2023

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Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and

(iii)The petitioner shall appear before the trial Court on the first working day of every month 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.

[SSSRJ] [SMJ]
12.10.2023

ars

Internet: Yes

To

- 1.The Sessions Judge,
Magalir Neethimandram (FT Mahila Court), Villupuram.
- 2.The Inspector of Police,
Thiyagathuruvam Police Station,



Crl.MP.No.6502/2023 in Crl.A.No.531/2023

Kallakurichi Taluk, Villupuram District.

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3.The Superintendent of Prisons,
Central Prison, Cuddalore.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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Crl.MP.No.6502/2023 in Crl.A.No.531/2023

S.S.SUNDAR, J

and

SUNDER MOHAN, J

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Crl.MP.No.6502/2023 in Crl.A.No.531/2023



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Crl.MP.No.6502/2023 in Crl.A.No.531/2023

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