



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

Monday, the Seventeenth day of April Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.1904 of 2023
in
CRL A(MD) No.543 of 2022

C.SEKAR

... PETITIONER/APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
KOOMAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.153 OF 2016)

... 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 passed against the petitioners by the Learned Sessions Judge, Fast Track Mahila court, Virudhunagar District at Srivilliputhur in S.C No. 209 of 2016 dated 18.08.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD).543/2022 :

To set aside the judgment and conviction passed by the Learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.209 of 2016 dated 18.08.2022 and acquit the appellants herein.

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.THALAIMUTHARASU.G, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

RESERVED ON	06.04.2023
PRONOUNCED ON	17.04.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar @ Srivilliputhur, in S.C.No.209 of 2016, dated 18.08.2022, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the petitioner, who is the accused, was married to one Deepa and it was a love marriage, that since they did not have any children, the deceased, who is the mother of the petitioner, had been frequently compelling the petitioner to marry another girl, but that was not liked by the petitioner, that since there was continuous pressure on the side of his mother for second marriage, on 23.08.2016, at about 02.00 p.m., out of anger, the petitioner pushed down his mother and attacked her with brick and as a result of the continuous attack, she sustained injuries and died and that therefore, FIR came to be registered in Crime No.153 of 2016 for the offence under Section 302 IPC.

3. The respondent, after completing the investigation, has filed the final report and the same was taken on file in S.C.No.209 of 2016 and the same was pending on the file of the Sessions Court, Fast Track Mahila Court, Virudhunagar @ Srivilliputhur.

4. During trial, the prosecution has examined 16 witnesses as P.W.1 to P.W.16, exhibited 13 documents as Ex.P.1 to Ex.P.13 and marked 4 material objects as M.O.1 to M.O.4. The accused has adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 18.08.2022 convicting the petitioner for the offence under Section 304(1) IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo 3 months Rigorous Imprisonment. Aggrieved by the said judgment of conviction and sentence, the accused has come forward with the present Criminal Appeal.

6. The learned counsel appearing for the petitioner would submit that the petitioner is the only breadwinner of his family, that the petitioner's first application for suspension of sentence was dismissed, that the petitioner was on bail during the trial and that the petitioner is in prison for more than 5 months.

7. The learned counsel appearing for the petitioner would further submit that the learned Judge of this Court in the earlier application for suspension of sentence has specifically observed as there was continuous pressure by the deceased to the petitioner to marry another girl, by losing his self-control, the petitioner assaulted the deceased and that since the judgment is of recent origin, the petitioner can revive the suspension petition after some time and by giving such opportunity, dismissed the petition. He would further submit that in pursuance of the liberty granted by this Court, the present application came to be filed.

8. Even according to the prosecution, it was a sustained provocation.



9. Admittedly, the petitioner is in prison from 18.08.2022 the date on which the impugned judgment was passed.

10. The learned counsel appearing for the petitioner would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid fine amount.

11. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

12. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

13. The learned counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

14. Considering the above facts and circumstances of the case and also the fact that the petitioner is in prison from 18.08.2022 and also taking note of the fact that the petitioner had attacked his mother as he was unable to bear the continuous pressure exerted by his mother to marry another girl, this Court is inclined to suspend the sentence imposed on the petitioner.

15. In the result, this Criminal Miscellaneous Petition is allowed. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court daily at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements



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to file an application under Section 317 of 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.

sd/-

17/04/2023

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/ TRUE COPY /

17/04/2023

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

CSM

TO

1 THE SESSIONS JUDGE, FAST TRACK MAHILA COURT,
VIRUDHUNAGAR @ SRIVILLIPUTHUR.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE, KOOMAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1 CC to M/s.G.THALAIMUTHARASU, Advocate (SR-5963[I] dated
17/04/2023)

ORDER

IN

CRL MP(MD) No.1904 of 2023
in

CRL A(MD) No.543 of 2022

Date :17/04/2023

RS/VR/SAR-(17.04.2023) 4P 6C