



WEB COPY

CRL MP(MD)



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

Wednesday, the Eighth day of March Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN
CRL MP(MD) No.3597 of 2023
in
CRL A(MD) No.158 of 2023

JESTINSON

... Appellant / Accused No.1

Vs

THE STATE REP BY ITS
THE INSPECTOR OF POLICE
PUDHUKADAI POLICE STATION,
KANYAKUMARI DISTRICT.
(CRIME NO.438/2012)

... Respondent / Complainant

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence of Imprisonment imposed by the Honble Sessions Fast Track Mahila court, Kanniyakumari at Nagercoil in S.C No. 133 of 2013 by the judgement dated 13.09.2022 and enlarge the petitioner / Appellant on bail pending disposal of above said Criminal Appeal.

Prayer in CRL A(MD). 158/ 2023 :

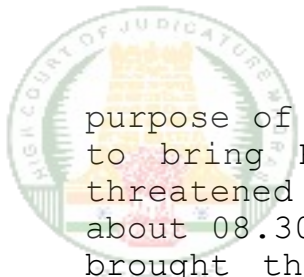
To call for records and allow this appeal and acquit the appeallant from all the charges by setting aside the impugned judgement passed by the Hon'ble Session Fast Track Mahila Court, Kanyakumari at Nagercoil in S.C.No.133 of 2013 bu judgment dated 13.09.2022.

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.AAYIRAM K.SELVAKUMAR, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Government Advocate (Crl. side) on behalf of the Respondent the court made the following order:-

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

2.The facts in brief:-

The deceased was married this petitioner, on 14/09/2005. After the marriage, they gave birth to two children. During that time, it is stated that A1 and A2 started selling the jewels, which belongs to the deceased one by one. On 19/09/2012 at about 03.00 pm, for the



purpose of getting job for A2, A1 alleged to have asked the deceased to bring Rs.3,00,000/- from her parental home and she was also threatened not to return to home without money. On 20/09/2012 at about 08.30 am, again they asked the deceased as to why, she has not brought the money. Again they scolded her to bring money in the evening itself, otherwise, she shall not return to the home, instead she must go and die. Because of the above said mental cruelty, the deceased was driven to commit suicide along with her two children by jumping in front of the Kanyakumari-Bangalore Express Train. Over the above said occurrence, a case was registered in Crime No.616 of 2012 and after completing the formalities of investigation, final report was filed in SC No.13 of 2013 for the offences punishable under sections 498(A) and 306 IPC and section 4 of the Dowry Prohibition Act.

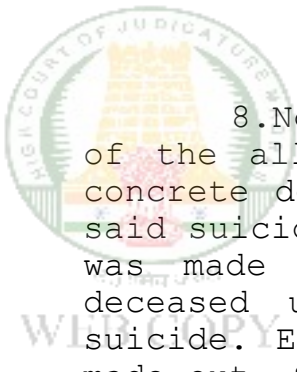
3.To prove the guilt of the accused, on the side of the prosecution, 33 witnesses have been examined and 31 documents marked, apart from 3 material objects marked. On the side of the accused, no witness was examined and no document was exhibited.

4.At the conclusion of the trial, the trial court found the petitioner guilty and convicted him for the offence under section 498(A) IPC and sentenced to undergo 2 years rigorous imprisonment and imposed a fine of Rs.5,000/- with default clause; for the offence under section 306(A) IPC, to undergo 10 years rigorous imprisonment and imposed a fine of Rs.5,000/- with default clause; for the offence under section 4 of the Dowry Prohibition Act, to undergo 2 years rigorous imprisonment and imposed a fine of Rs.5,000/- with default clause and the directed to run the sentences concurrently.

5.Against which, the criminal appeal has been preferred before this court. Pending appeal seeking suspension of sentence, this petition has been preferred by the petitioner, who is the husband of the deceased.

6.The learned counsel appearing for the petitioner/A1 would submit that they were married to each other and for about 7 years, there was no quarrel between them and the life went smoothly; Even as per the allegation that has been made in the final report, which according to him, it is not a probable one, since the demand alleged to have been made for securing a job for the second accused, who was already employed; Improbability, in this case for having demanded money from the parental home must be taken into account by this court.

7.But the learned Additional Public Prosecutor would submit that there is a clear evidence on record to show that because of the harassment, that was made by the accused, the deceased along with her two children committed suicide, which in a pathetic situation even the petitioner is not entitled for any leniency.



8.No doubt that these some confusions with regard to the of the alleged demand and the purpose of demanding, etc. But no concrete defence has been made by the accused. As to why the above said suicide was committed along with the two children, a suggestion was made to the Investigating officer to the effect that the deceased used to tell frequently that she is going to commit suicide. Except this belated explanation, no other ground has been made out. So the circumstantial evidence must be taken into account, in such matters, which has been rightly taken into account by the trial court.

9.Whether the above said circumstance alleged above is sufficient enough to hold the accused guilty or not is the matter for consideration in the appeal.

10.In the result, this criminal miscellaneous petition is **dismissed**.

sd/-
08/03/2023

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/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER

To

1.The Judge,
Sessions Fast Track Mahila Court,
Kanyakumari at Nagercoil.

2.The Inspector of Police,
Pudhukadai Police Station,
Kanyakumar District.

3.The Superintendent,
Central Prison,
Palayamkottai, Tirunelveli.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN
CRL MP(MD) No.3597 of 2023
IN
CRL A(MD) No.158 of 2023
Date :08/03/2023