



CRL MP(MD) No.4237 of 2023

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

Thursday, the Third day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH  
and  
The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.4237 of 2023  
in  
CRL A(MD) No.193 of 2023

MOHAN

... PETITIONER/ APPELLANT/ SOLE ACCUSED

Vs

State Rep.by  
THE INSPECTOR OF POLICE  
KARAMBAKKUDI POLICE STATION,  
PUDUKKOTTAI DISTRICT.  
CRIME NO. 26/2019

... RESPONDENT/ RESPONDENT/ COMPLAINANT

Criminal Miscellaneous 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 imposed in S.C No. 87 of 2019 order dated 07.02.2023 on the file of the Mahila court, Pudukkottai pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD).193/2023 :

To calling for records relating to the conviction and sentence imposed by the trial court by its judgment dated 07.02.2023 in S.C.No.87 of 2019 on the file of the Mahila Court, Pudukkottai and set aside the same, acquit the appellant.

Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.A.ARUNPRASAD, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent,

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the court made the following order:-

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[Order of the Court was made by M.NIRMAL KUMAR, J.]

This petition has been filed to suspend the sentence imposed against the petitioner / sole accused in S.C.No.87 of 2019, dated 07.02.2023 on the file of the Mahila Court, Pudukkottai and enlarge him on bail pending disposal of the Criminal Appeal.

2.In the said judgment, the trial Court convicted the petitioner / sole accused for the offence under Section 302 IPC, sentenced him to undergo life imprisonment and to pay a fine of Rs.2,00,000/- (Rupees Two Lakhs Only) in default to undergo rigorous imprisonment for one year.

3.The case of the prosecution is that P.W.1 is the father of the deceased Mahalakshmi. She studied B.A., B.Ed., and was working in Mahatma Gandhi Rural Employment Scheme as a Supervisor and had developed love affair with the petitioner, which was objected by her parents and family members. While so, on 31.01.2019, when the deceased was serving dinner to P.W.1, she received a phone call at about 09.00 p.m., and for answering the phone call, she went out from home. After few minutes, one Ashok Kumar, grandson of P.W.1 informed P.W.1 that there was some commotion and noise heard nearby. Thereafter, P.W.1 had gone there along with said Ashok Kumar, found his daughter lying down in pool of blood with blood

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injuries. Thereafter, a complaint was lodged and the respondent Police had registered the case. On getting information, the petitioner was arrested in the presence of P.W.5 Village Administrative Officer and P.W.6 his assistant on 01.02.2019. Based on the confession of the petitioner, M.O.1 and M.O.5 recovered, further the articles found in the scene of occurrence were seized. The inquest was conducted and the body was sent to postmortem.

4.P.W.7 is the Doctor, who conducted postmortem and issued postmortem certificate Ex.P.8. His final opinion is Ex.P.9. Thereafter, charge sheet filed before the concerned Court. During the trial, prosecution examined P.W.1 to P.W.10 marked Ex.P.1 to P.20 and produced material objects M.O.1 to M.O.7. On the side of the defence, Ex.D.1 was marked. On conclusion of the trial, the trial Court convicted the petitioner as stated above.

5.The learned counsel for the petitioner submitted that in this case P.W.1 and P.W.2 were projected as eye witnesses. Both of them admit that they came to the scene of occurrence after hearing noise not witnessed attack. They saw the deceased lying in pool of blood with injuries. He further submitted that P.W.3 is the brother of the deceased, admits that after the incident, he had come to the village. Thus, there is no eyewitness. Now the evidence to be considered as circumstantial evidence. P.W.5 Village Administrative Officer turned hostile. P.W.6, the assistant of P.W.5, supports



the case of the prosecution whose presence during arrest and confession highly doubtful.

6.He further submitted that according to the evidence of P.W.1 and P.W.2, the accused, P.W.1 and Ashok Kumar were all taken by the Police on the same day immediately after the occurrence. Further, the witnesses confirmed that the Police reached the scene of occurrence within few minutes. Hence, the arrest, according to the prosecution made on 01.02.2019, becomes highly doubtful. However, the trial Court failed to consider the same. Further, P.W.7 Doctor, who conducted postmortem found 10 injuries recorded the same and on dissection recorded five corresponding injuries. He confirms the injuries could have been sustained by using wooden log. Therefore, introduction of M.O.5 knife in this case is obvious to strengthen the case of the prosecution. The evidence of recovery witness as well as doctor evidence, cut the root of the prosecution case.

7.He further submitted that in this case for the injuries sustained by the petitioner / accused, no explanation given. The petitioner had obtained information from Superintendent of Prisons, Pudukkottai, by Right to Information Act and marked the same as Ex.D.1. From Ex.D.1 it is seen that the petitioner had sustained multiple injuries and these injuries recorded by the Prison Doctor. Further, petitioner treated as out patient in Government Hospital, Karambakkudi, for his injuries. The



injuries sustained by the petitioner suppressed by the prosecution, which would expose the prosecution case of hollowness and falsity.

8.He further submitted that it was suggested to P.W.3 that a mob engaged by him attacked the petitioner as well as the deceased, due to which, the deceased succumbed and the petitioner sustained serious injuries. The petitioner during questioning under 313 Cr.P.C., reaffirmed the same. The trial Court failed to consider these aspects and convicted the petitioner.

9.The learned Additional Public Prosecutor for the respondent objected for grant of suspension of sentence for the reason, it is recent judgment of February, 2023. He submitted that the trial Court considered all the contentions raised by the petitioner and thereafter, rendered the judgment of conviction. Further, in this case, P.W.1 clearly stated that the deceased, on getting phone call, left the home and few minutes thereafter, she was found dead with multiple injuries in pool of blood, where the accused was present along with wooden log. P.W.2 also corroborates the evidence of P.W.1. P.W.3, the brother of the deceased, states about the love affair between the petitioner and the deceased, which objected by the parents and family members of the deceased. Though P.W.5 Village Administrative Officer turned hostile, P.W.4, who went along with P.W.5, confirmed the case of the prosecution. The trial Court considered the evidence and materials produced on record and rightly



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convicted the petitioner. Hence, the judgment of conviction does not warrant any interference.

10.Considering the submissions and perusal of the materials, it is seen that there are no eye witnesses and the prosecution projected P.W.1 and P.W.2 as witnesses for the occurrence. Both admitted that they came to scene of occurrence after hearing the noise. According to them, in the scene of occurrence they saw the deceased in pool of blood with injuries and the petitioner with injuries standing with M.O.1 wooden log. They confirmed that the accused was taken from the scene of occurrence by the Police along with them, but strangely the prosecution projected as if the accused was arrested on the next day ie., 01.02.2019. In this case, P.W.5 Village Administrative Officer not supported the case of the prosecution. Thus, the arrest and recovery becomes questionable one.

11.Added to it, P.W.7 Doctor, who conducted postmortem, confirmed that the injuries sustained by the deceased could have been caused by using wooden log and the accused had also sustained injuries with wooden log, which is confirmed by Ex.D.1. P.W.12 Investigating Officer admit in his evidence about the injuries sustained by the accused and the treatment given to the accused. It is the case of circumstantial evidence, it is seen that link in chain of events is not well connected. Added to it, for the injuries sustained by the petitioner / accused, no explanation



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given, which causes serious doubt in the prosecution case.

12. In view of the same, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioner / sole accused. Accordingly, this petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment is suspended subject to the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/-, with two sureties, each for a like sum to the satisfaction of the Mahila Court, Pudukkottai; and

(ii) The petitioner shall appear before the Mahila Court, Pudukkottai, once in a month on the first working day of every English Calendar month he shall appear before the said Court at 10.30 a.m. until further orders and if he is not able to appear before the said Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the said Court on any other day in lieu of the date of his absence, as directed by the said Court.

sd/-  
03/08/2023

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04/08/2023

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

YUVA  
TO  
1 THE JUDGE,  
MAHILA COURT, PUDUKKOTTAI.



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2 THE SUPERINTENDENT,  
CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE  
KARAMBAKKUDI POLICE STATION,  
PUDUKKOTTAI DISTRICT.

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

+1 CC to M/s.A.ARUN PRASAD, Advocate ( SR-11808[I] dated 04/08/2023 )

ORDER  
IN  
CRL MP(MD) No.4237 of 2023  
in  
CRL A(MD) No.193 of 2023  
Date :03/08/2023

RS//SAR-(04.08.2023) 8P 6C  
Madurai Bench of Madras High Court is issuing  
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