



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

Tuesday, the Twenty Eighth day of March Two Thousand and Twenty
Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR
and
The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.4741 of 2023
IN
CRL.A(MD) No.407 of 2022

S.SANTHAKUMAR

... PETITIONER/APPELLANT/ACCUSED NO.1

Vs

STATE REP. BY,
THE INSPECTOR OF POLICE,
RAMESHWARAM NAGAR POLICE STATION,
RAMANATHAPURAM DISTRICT.
(CRIME NO.54/2014)

... RESPONDENT/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 imposed by the Fast Track Mahila Court, Ramanathapuram by its judgment dt.31.05.2022 in SC No.74/2015 and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

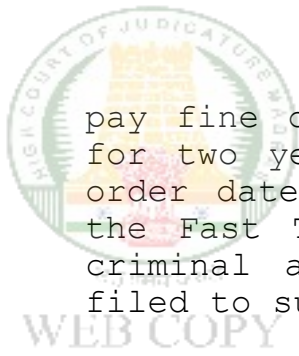
PRAYER IN CRL.A(MD) No.407 of 2022:-

To call for the records and set aside the judgement of the Fast Track Mahila Court, Ramanathapuram in his judgement dated 31.05.2022 in S.C.74 of 2015 by allowing this Criminal Appeal.

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.K.BAALASUNDHARAM, Senior Counsel for M/S.PARANJOTHI.R, Advocate for the petitioner and of M/S.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

(Order of the Court was made by R.SURESH KUMAR,J.)

The petitioner /A1, who was convicted for the offence under Section 302 IPC and sentenced to undergo life imprisonment and to



pay fine of Rs.3,000/-, in default to undergo simple imp. it for two years for offence under Section 302 IPC, by judgment and order dated 31.05.2022 passed in S.C.No.74 of 2015 on the file of the Fast Track Mahila Court, Ramanathapuram, has filed the above criminal appeal. Pending appeal, the present petition has been filed to suspend the sentence and to enlarge the petitioner on bail.

2. There were three accused in the case. A2 and A3 are the mother-in-law and sister-in-law respectively of the deceased and A-1, who is the present petitioner, is the husband of the deceased.

3. A2 and A3 already filed a petition for suspension of sentence in Crl.M.P.No.7509/2022 in Crl.A.No.407 of 2022 along with the present petitioner/A1 and a Division Bench of this Court by order order 14.10.2022 has suspended the sentence only in respect of A2 and A3 and rejected the application as against A-1.

4. Before the said Division Bench, the argument advanced by the prosecution side is that the incident had taken inside the house and if A1 to A3 were inside the house, the burden of proof lies upon them to explain as to how the incident had taken place under Section 106 of the Evidence Act, 1872, failing which, adverse inference must be drawn against the accused persons. Despite this argument advanced on behalf of the prosecution, the Division Bench, having considered the circumstances, was inclined to grant suspension of sentence by the said order to A2 and A3. Here also the very same arguments had been advanced by the learned Additional Public Prosecutor appearing for the respondents and he also pointed out that the postmortem report, which has been heavily relied upon by the trial Court, has undoubtedly revealed that there had been no chance of hanging which caused the death of the deceased and therefore, if any death occurred by corroborating circumstances by way of eye witness, ie., P.W.3, who is the neighbour, the trial Court has come to the right conclusion that the accused persons were responsible for the death of the deceased. Therefore, against the said strong evidence, the petitioner cannot make out a case on the defence side even for seeking suspension of sentence. Therefore, the learned Additional Public Prosecutor opposing this petition vehemently.

5. However, the learned Senior counsel for the petitioner would point out that insofar as the evidence of P.W.3 is concerned, he has deposed stating that after seeing the accused persons, who had taken the deceased to the hospital in an auto, he enquired and after some time he visited the hospital, where he came to know about the death of the deceased.

6. If that being so, admittedly, the death either could have been occurred before the deceased could have been brought to the hospital or immediately she was brought to the hospital, at any rate, the death must have been declared only by the hospital authority, where the deceased was admitted and in this regard the



accident register has not been recovered and produced for the prosecution. Though this has been pointed out by the defence side before the trial Court, the trial Court brushed aside the same and stated that non production of accident register would not defeat the prosecution case. All these aspects have to be gone into in detail by this Court only during the final hearing, for which, it will take some reasonable time, as immediately the criminal appeal would not be taken up for hearing and therefore, taking note of the facts and circumstances of the case and the argument of the prosecution side would apply to all the three accused including the present petitioner and already A2 and A3 had been considered for bail by the order referred to above, we are of the view that in respect of the petitioner/A1 is concerned, he is entitled to be considered for bail.

7. In view of the above, this Court is inclined to suspend the sentence imposed by the Court below in S.C.No.74 of 2015 dated 31.05.2022 subject to 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 Additional District Fast Track Court, Mahila Court, Ramanathapuram.
- (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 once in fortnight 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.

sd/-
28/03/2023

/ TRUE COPY /

29/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RR

<https://www.mhc.tn.gov.in/judis>



To

1. The Additional District Fast Track Mahila Court,
Ramanathapuram.

2. Fast Track Mahila Court, Ramanathapuram.

3. The Superintendent of Prison,
Central Prison,
Madurai.

4. The Inspector of Police,
Rameshwaram Nagar Police Station,
Ramanathapuram District.

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

+1 CC to M/s.A.ARUL JENIFER, Advocate (SR-5019[I] dated
28/03/2023)

ORDER

IN

CRL MP (MD) No.4741 of 2023

IN

CRL A (MD) No.407 of 2022

Date :28/03/2023

NA/MMS/SAR- /29.03.2023/4P/7C