



CRL MP(MD) No.5821 of 2023

WEB COPY

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

Monday, the Twenty Eighth day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.5821 of 2023

in

CRL A(MD) No.294 of 2023

VELMURUGAN

... PETITIONER/SOLE ACCUSED

Vs

State Rep.by

THE INSPECTOR OF POLICE (SUSINDRAM CIRCLE),

ANJUGRAMAM POLICE STATION,

KANYAKUMARI DISTRICT.

CR.NO.210/2014

... RESPONDENT/RESPONDENT

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 Sentenced of Imprisonment imposed by Honourable Fast Track (Mahila Court) Sessions Judge, Nagercoil Kanyakumari District in SC.No.63/2015 by the judgment dt 27.01.2023 and enlarge the petitioner appellant on bail pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD).294/2023 :

To call for the records pertaining to the conviction order passed in S.C.No.63 of 2015, dated 27.01.2023, on the file of the Hon'ble Fast Track (Mahila Court) Session Judge, Nagercoil, Kanyakumari District and set aside the same as illegal.

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.S.SURESH KUMAR, Advocate for the petitioner and of MR.M.VAIKKAM KARUNANITHI, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

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



CRL MP(MD) No.5821 of 2023

WEB COPY

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.63 of 2015, dated 27.01.2023, on the file of the Fast Track (Mahila Court) Session Judge, Nagercoil, Kanyakumari District, and enlarge the petitioner on bail till the disposal of this Criminal Appeal.

2. According to the prosecution, on 18.05.2006, marriage was solemnized between the petitioner and the deceased. Due to the wedlock, a male and a female child were born to them. The petitioner is used to harass the deceased in a drunken mode without providing financial needs. On 15.05.2014, when the deceased was demanding money from the petitioner for day-to-day needs, the petitioner said to have abused the deceased in filthy language and also assaulted her. Due to which, on 16.05.2014, at about 03.30 a.m, the deceased committed self immolation. Subsequently, she was taken to the Government Hospital, Kanyakumari. However, she died on 20.05.2014. Hence, a complaint was lodged before the respondent police.

3. On receipt of the complaint, the respondent police registered the FIR in Crime No.210 of 2014 for the offences under Section 498(A) of IPC and the same was altered into Sections 498(A) and 306 of IPC.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 498(A) and 306 of IPC before the Fast Track (Mahila Court) Session Judge, Nagercoil, Kanyakumari District. The learned Sessions



CRL MP(MD) No.5821 of 2023

Judge has taken the case on file in S.C.No.63 of 2015 and thereafter, conducted trial as per procedure stated in code of Criminal Procedure.

WEB COPY

5. During the trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 16 documents as Ex.P.1 to Ex.P.16 and marked 2 Material Objects as P.M.O.1 to P.M.O.4, whereas, the accused has adduced neither oral nor documentary evidence.

6. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted him for the offence under Sections 498(A) and 306 of IPC and sentenced him to undergo 2 years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default, to undergo 6 months Rigorous Imprisonment for the offence under Section 498(A) of IPC and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default, to undergo 6 months Rigorous Imprisonment for the offence under Section 306 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

7. The learned counsel for the petitioner submitted that even in the evidence of P.W.1 and P.W.2, who are the parents of the deceased stated that the deceased committed self immolation and the petitioner tried to save her. In that process, he



CRL MP(MD) No.5821 of 2023

also sustained 20% burn injuries. There was no other circumstances that the petitioner treated the deceased with cruelty as alleged by the prosecution. He further submitted that no previous case is pending against the petitioner and the petitioner is in custody from 27.01.2023. Hence, he seeks to grant of suspension of sentence to the petitioner.

8. The learned Government Advocate (Crl.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.

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

10. Admittedly, while he rescuing the deceased the petitioner sustained 20% burn injuries and according to the learned counsel for the petitioner, there was no evidence adduced by the prosecution to prove the cruelty caused by the petitioner. Considering the said circumstances and the period of incarceration of the petitioner from 27.01.2023 and also considering the fact that no bad antecedent is reported against the petitioner and as rightly contended by the learned counsel for the petitioner that there are some arguable points involved in the criminal appeal, this Court is inclined to grant suspension of sentence and accordingly, this petition is allowed on the following conditions:



CRL MP(MD) No.5821 of 2023

WEB COPY

(i) the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Fast Track (Mahila Court) Session Judge, Nagercoil, Kanyakumari District;

(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 petitioners shall appear before the trial Court once in a month i.e., on the first working day of every month at 10.30 a.m. pending revision.

sd/-

28/08/2023

/ TRUE COPY /

29/08/2023

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

TO

1 THE FAST TRACK (MAHILA COURT) SESSIONS JUDGE, NAGERCOIL,
KANYAKUMARI DISTRICT.

2 THE INSPECTOR OF POLICE (SUSINDRAM CIRCLE),
ANJUGRAMAM POLICE STATION, KANYAKUMARI DISTRICT.

3 THE SUPERINTEDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

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

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



CRL MP(MD) No.5821 of 2023

+1 CC to M/s.S.SURESH KUMAR, Advocate (SR-12861[I] dated 28/08/2023)

ORDER
IN
CRL MP(MD) No.5821 of 2023
in
CRL A(MD) No.294 of 2023

RS//SAR-(29.08.2023) 6P 6C
Madurai Bench of Madras High Court is issuing
certified copies in this format from 17/07/2023