



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

Tuesday, the Thirteenth day of June Two Thousand and Twenty Three

PRESENT

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

CRL MP(MD) No.6455 of 2023
in
CRL A(MD) No.329 of 2023

AJITH @ NALLA MOHAMED

... APPELLANT/A1

Vs

State Rep.by
THE INSPECTOR OF POLICE
SOOLAKKARAI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CRIME NO.42 OF 2017

... RESPONDENT/COMPLAINANT

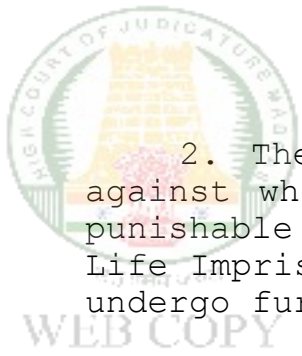
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the Judgment dated 11.04.2023 made in S.C No. 157 of 2017 on the file of the Additional District and Sessions Judge, Virudhunagar and enlarge the petitioners on bail pending disposal of the above appeal.

PRAYER IN CRL A(MD).329/2023 :

To call for the records relating to the Judgment dated 11.04.2023 made in S.C.No.157 of 2017 on the file of Additional District and Sessions Judge, Virudhunagar and set aside the conviction and sentence imposed on the Appellant and allow the above appeal by acquitting the Appellant.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.M.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES for the petitioner and of MR.E.ANTONY SAHAYA PRABAHAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner / A1 to suspend the sentence imposed by the learned Additional District and Sessions Judge, Virudhunagar, in Sessions Case No.157 of 2017, dated 11.04.2023 and enlarge the petitioner / appellant on bail pending the Criminal Appeal.



2. The petitioner is the first accused in the said case and against whom the trial Court has given conviction for the offence punishable under Section 302 I.P.C., and punished him to undergo Life Imprisonment and to pay a fine of Rs.25,000/- and in default to undergo further Rigorous Imprisonment for six months.

3. On the side of the prosecution, P.Ws.1 to 27 were examined and Exs.P.1 to P.25 were marked and also material objects M.Os.1 to 18 were marked.

4. Heard Mr.M.Ajmal Khan, learned Senior Counsel appearing for the petitioner and Mr.E.Antony Sahaya Prabahar, learned Additional Public Prosecutor appearing for the respondent.

5. The learned Senior Counsel appearing for the petitioner pointed out that, there is no eye-witness and even there has been no strong circumstantial evidence also. When that being so, the prosecution case has been completely failed, despite that, conviction has been inflicted against the petitioner herein and hence, he seeks indulgence of this Court.

6. However, the learned Additional Public Prosecutor appearing for the respondent would submit that, the motive behind this murder was that there has been triangular affair of love between the deceased, A3 and P.W.11.

7. We have gone through the judgment impugned as well as the deposition of P.W.3. No doubt, there has been no direct evidence or eye witness. But, insofar as the circumstantial evidences are concerned, prima facie, we feel that, that can be gone into only at the time of final hearing of the appeal, but as of now, in view of the aforesaid circumstances, we feel that, this petition can be allowed.

8. 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.25,000/-, with two sureties, each for a like sum to the satisfaction of the learned Additional District and Sessions Judge, Virudhunagar;
- (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 learned Additional District and Sessions Judge, Virudhunagar, once in a month, the first such appearance he shall make insofar as June, 2023 is concerned, on 23.06.2023 at 10.30 a.m. and subsequently every month on the first working day of English Calender 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/-

13/06/2023

/ TRUE COPY /

15/06/2023

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

sj

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, VIRUDHUNAGAR DISTRICT.

2 THE INSPECTOR OF POLICE, SOOLAKKARAI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-8605[I] dated
13/06/2023)

ORDER

IN

CRL MP(MD) No.6455 of 2023

in

CRL A(MD) No.329 of 2023

Date :13/06/2023

RS/SSS/SAR-(15.06.2023) 3P 6C