



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

Thursday, the Eighteenth day of May Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

Crl.M.P(MD)No.7464 of 2023
in
Crl.A.(MD)No.302 of 2023

RAJESH

(PRESENTLY CONFINED AT CENTRAL PRISON,
PALAYAMKOTTAI)

2 SASIKALA

(PRESENTLY CONFINED AT WOMEN PRISON,
MADURAI)

... APPELLANTS/ACCUSED

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
THUCKALAY, KANYAKUMARI DISTRICT.

2 THE INSPECTOR OF POLICE,
PALUKAL POLICE STATION,
KANYAKUMARI DISTRICT.

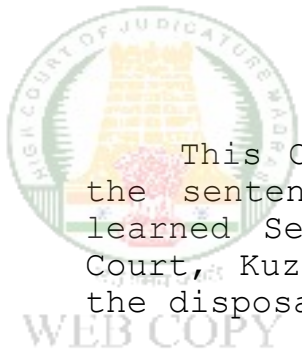
... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge them on bail by suspending the sentence imposed on them in SC.No.59 of 2010 by the Mahila Fast Track Court, Nagercoil (Camp Court, Kuzhithurai) dt.9.2.2023 pending disposal of the above Criminal Appeal.

PRAYER IN Crl.A.(MD)No.302 of 2023:-

To call for the records and to set aside the Judgement made in S.C.No.59 of 2010 on the file of the Mahila Fast Track Court, Nagercoil (Camp Court, Kuzhithurai) dated 09.02.2023.

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.VENKATESH D, Advocate for the petitioner and of M/S.M.SAKTHI KUMAR, Government Advocate (Crl.Side) on behalf of the Respondents the court made the following order:-



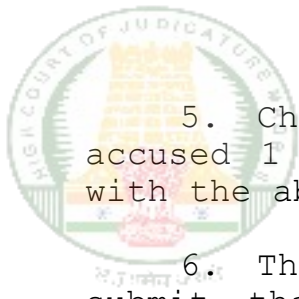
This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioners/accused 1 and 2 by the learned Sessions Judge, Fast Track Mahila Court, Nagercoil (Camp Court, Kuzhithurai), in S.C.No.59 of 2010, dated 09.02.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the marriage between the first petitioner and one Sowmya was solemnized on 09.02.2009 and after the marriage, the petitioners and the third accused had demanded dowry from the deceased and harassed her, for which, the said Sowmya had committed suicide and on that basis, FIR came to be registered in Crime No.6 of 2010. The respondent police, after completing the investigation, has filed the final report.

3. During trial, the prosecution has examined 19 witnesses as P.W.1 to P.W.19, exhibited 18 documents as Ex.P.1 to Ex.P.18 and marked 1 material object as M.O.1. The accused have examined 1 witness as D.W.1 and exhibited 2 documents as Ex.D.1 and Ex.D.2.

4. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 09.02.2023 convicting the petitioners/accused Nos.1 and 2 and sentenced them as follows:-

Accused	Provision under which convicted	Sentence
A1-Rajesh	under Section 304B(2) IPC	to undergo rigorous imprisonment for 10 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for 1 year
	under Section 498A IPC	to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for 6 months
A2-Sasikala	under Section 304B(2) IPC	to undergo rigorous imprisonment for 7 years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for 6 months
	under Section 498A IPC	to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for 6 months



5. Challenging the above said conviction and sentence the accused 1 and 2 have preferred the present Criminal Appeal along with the above miscellaneous petition for suspension of sentence.

6. The learned counsel appearing for the petitioners would submit that the second petitioner is the mother of the first petitioner and is aged about 60 years.

7. The learned counsel appearing for the petitioners would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioners have already paid fine amount.

8. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioners and hence, he strongly opposed to grant suspension of sentence.

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

10. Considering the facts and circumstances of the case and also the seriousness and gravity of the offence alleged against the first petitioner, this Court is not inclined to suspend the sentence imposed on the first petitioner. Accordingly, this Criminal Miscellaneous Petition is dismissed as against the first petitioner concerned.

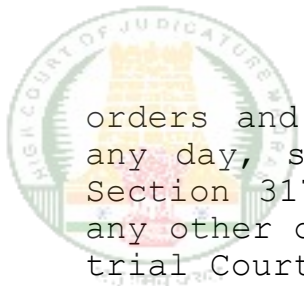
11. Considering the age of the second petitioner, this Court is inclined to suspend the sentence imposed on the second petitioner.

12. **In the result, this Criminal Miscellaneous Petition is allowed as against the second petitioner concerned.** Accordingly, the relief of suspension of sentence and bail is granted to the second petitioner on the following conditions:-

(i) The second petitioner shall execute a bond for a **sum of Rs.25,000/- (Rupees Twenty Five Thousand only)** with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.I, Kuzhithurai;

(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 second petitioner shall appear before the concerned Court on all working days at 10.30 a.m., until further



orders and if she is not able to appear before the trial on any day, she shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of her absence, as directed by the trial Court.

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sd/-
18/05/2023

/ TRUE COPY /

19/05/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

TO

1. THE MAHILA FAST TRACK COURT,
NAGERCOIL. (CAMP COURT, KUZHITHURAI)
 2. THE JUDICIAL MAGISTRATE NO.I, KUZHITHURAI.
 3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 4. THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
 5. THE OFFICER IN-CHARGE, WOMEN PRISON, MADURAI.
 6. THE DEPUTY SUPERINTENDENT OF POLICE,
THUCKALAY, KANYAKUMARI DISTRICT.
 7. THE INSPECTOR OF POLICE,
PALUKAL POLICE STATION,
KANYAKUMARI DISTRICT.
 8. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.VENKATESH D, Advocate (SR-7589[I] dated 19/05/2023)

ORDER
IN
CRL MP(MD) No.7464 of 2023
Date :18/05/2023

NA\VR\SAR- /19.05.2023/4P/10C

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