



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

Monday, the Twelfth day of June Two Thousand and Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.7810 of 2023
in
CRL A(MD)No.158 of 2023

JESTINSON

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
PUDHUKADAI POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.438 OF 2012.

... RESPONDENT/COMPLAINANT

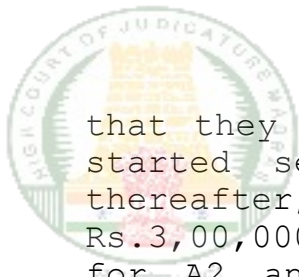
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of Imprisonment imposed by the Honble Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil in S.C.No.133 of 2013 by the judgment dated 13.09.2022 and enlarge the petitioner/appellant on bail, pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD). 158/ 2023 :

To call for records and allow this appeal and acquit the appellant from all the charges by setting aside the impugned judgement passed by the Hon'ble Session Fast Track Mahila Court, Kanyakumari at Nagercoil in S.C.No.133 of 2013 bu judgment dated 13.09.2022.

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.AAYIRAM K.SELVAKUMAR, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.133 of 2013, dated 13.09.2022, on the file of Session Fast Track Mahila Court, Kanyakumari at Nagercoil, till the disposal of this Criminal Appeal.

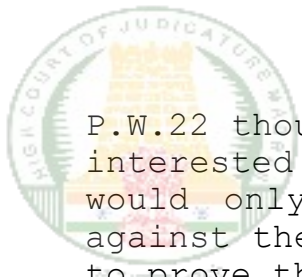


that they have been blessed with two children; that the petitioner started selling the jewels of the deceased, one by one and thereafter, the petitioner asked the deceased to bring Rs.3,00,000/- from her parental home for the purpose of getting job for A2 and due to that there arose some quarrel and that on 20.09.2012 the petitioner scolded the deceased to bring money in the evening itself, otherwise, she shall not return to the home, instead she must go and die and that thereafter, the deceased was constrained to commit suicide along with her two children and jumped in front of Kanyakumari Bangalore Express Train. On the basis of the complaint lodged, FIR came to be registered in Crime No.438 of 2012 and the respondent Police, after completing the investigation, has filed a final report for the alleged offence under Section 498(A) and 306 IPC and Section 4 of Dowry Prohibition Act and the same was taken on file in S.C.No.133 of 2013 on the file of the Fast Track Mahila Court, Kanyakumari at Nagercoil.

3. During the trial, the prosecution has examined 33 witnesses as P.W.1 to P.W.33 and exhibited 31 documents as Ex.P.1 to Ex.P.31 and marked three material objects as M.O.1 to M.O.3. The defence side has examined one witness as D.W.1 and exhibited one document as Ex.D.1.

4. The learned trial Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, has passed the impugned judgment dated 13.09.2022 convicting the petitioner/accused for the offence under Section 498(A) IPC and sentenced him to undergo two years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default, to undergo six months simple Imprisonment and convicting the petitioner for the offence under Section 306 of IPC and sentenced him to undergo ten years Rigorous Imprisonment and pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment and convicting the petitioner for the offence under Section 4 of Dowry Prohibition Act and sentenced him to undergo 2 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment. Aggrieved by the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioner would submit that there was evidences to prove that the deceased and her two children had trespassed on the railway track and jumped before the Kanyakumati -Bangalore Express train, but there was no proof beyond reasonable doubt to prove the petitioner's involvement in the case; that the witnesses P.W.1 to P.W.7 were railway employees to speak about the incident; that P.W.8 to P.W.11 were examined as eye witnesses, but turned hostile; that P.W.12 has also turned hostile; that P.W.13, P.W.14, who are brothers of the deceased and P.W.15 and P.W.16, who are the mother and wife of P.W.13 are all interested witnesses; that P.W.17 Mahazar witnesses had turned hostile; that P.W.18 to P.W.21 did not support the case of the prosecution; that



P.W.22 though supported, the prosecution case would be considered as interested witnesses and that the reading of the entire evidences would only reveal that the entire allegations were premeditated against the petitioner and that the prosecution has miserably failed to prove the case beyond reasonable doubt.

WEB COPY

6. The learned counsel for the petitioner would further submit that the petitioner has noway involved in the said occurrence as he led a happy matrimonial life with the deceased wife from the date of marriage for the past 8 years; that he was roped in the case at the instigation of the deceased relatives with bald allegations and that the trial Court without considering the evidence on proper perspective, has convicted the petitioner.

7. The learned Government Advocate (Criminal Side) appearing for the State would submit that the prosecution has produced ample evidences to prove the harassment made by the accused to the deceased, that because of the said harassment made by the accused, the deceased along with her two children had committed suicide and that the learned trial Judge considering the entire evidences in proper perspective, has rightly come to the conclusion that the charges framed against the accused were proved.

8. Considering the facts and circumstances of the case and also the seriousness and gravity of the offence allegedly proved and also the fact that the deceased along with two children had committed suicide and taking note of the fact that the impugned judgment was passed on 30.09.2022 and the period of incarceration, this Court is not inclined to suspend the sentence at this point of time.

9. In the result, the Criminal Miscellaneous Petition is dismissed.

sd/-

12/06/2023

/ TRUE COPY /

/07/2023

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

DAS

TO

1 THE JUDGE,
SESSIONS FAST TRACK MAHILA COURT,
KANYAKUMARI AT NAGERCOIL.

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

3 THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.



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

WEB COPY

ORDER
IN
CRL MP (MD) No.7810 of 2023
in
CRL A (MD) No.158 of 2023
Date :12/06/2023

SS/CG/03/07/2023/4P/5C