



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

Friday, the Thirtieth day of June Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.8008 of 2023
in
CRL A(MD) No.292 of 2023

RAMANI

... PETITIONER/PETITIONER/APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
KOOMAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.190 OF 2018)

... RESPONDENT/RESPONDENT/RESPONDENT

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 Learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.57 of 2019 dated 14.02.2023 and to enlarge the petitioner on bail till the disposal of the pending Criminal Appeal.

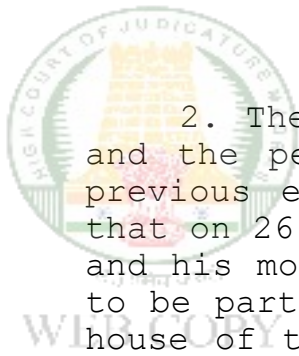
PRAYER IN CRL A(MD).292/2023 :

To call for the records pertaining to the judgment dated 14.02.2023 in S.C.No.57 of 2019 on the file of Learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District at Srivilliputhur and to set aside the same 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.MUTHUMALAI K, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

RESERVED ON	19.06.2023
PRONOUNCED ON	30.06.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/first accused by the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur, in S.C.No.57 of 2019, dated 14.02.2023, till the disposal of this Criminal Appeal.



2. The case of the prosecution is that the defacto complainant and the petitioner/first accused are brothers, that there existed previous enmity with regard to partitioning their Thennam Thoppu, that on 26.08.2018 at about 12.00 noon, when the defacto complainant and his mother and sisters were discussing about the Thennam Thoppu to be partitioned, the petitioner and the other accused came to the house of the defacto complainant and the petitioner had abused the defacto complainant and others in filthy language and stabbed the defacto complainant with knife and that when the witnesses had intervened, the petitioner and the other accused had abused the witnesses in filthy language and also attacked them.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.190 of 2018 on the file of the respondent police.

4. The respondent police, after completing the investigation, has filed the final report for the offences under Sections 294(b), 323, 324, 307 r/w 34 IPC and Section 4 of TNPWH Act.

5. During trial, the prosecution has examined 12 witnesses as P.W.1 to P.W.12, exhibited 12 documents as Ex.P.1 to Ex.P.12 and marked 1 material object as M.O.1. The defence have adduced neither oral nor documentary evidence.

6. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 14.02.2023 convicting the petitioner for the offence under Section 307 IPC and sentenced him to undergo 4 years Rigorous Imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months Rigorous Imprisonment and convicted for the offence under Section 324 (2 counts) IPC and sentenced him to undergo 1 year Rigorous Imprisonment for each count and acquitted the other accused under Section 235(1) Cr.P.C. Aggrieved by the said judgment of conviction and sentence, the first accused has come forward with the present Criminal Appeal.

7. The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are brothers and are having dispute over the ancestral properties, that P.W.1 is the younger brother, P.W.2 is the mother and P.W.3 and P.W.5 are the sisters of the petitioner, that the second accused is the wife, the third accused is the mother-in-law and the fourth accused is the brother-in-law of the petitioner, that all the witnesses are related witnesses and as such, their evidence has to be scrutinized carefully and that there are material contradictions and inconsistencies in the deposition of the witnesses regarding the manner of occurrence.

8. The learned counsel appearing for the petitioner would submit that P.W.2 stated that the weapon i.e., knife was



recovered by the police in front of her home while P.W.1 so present, but P.W.12-investigating officer stated that it was recovered after the arrest of the petitioner on 26.08.2018 and after recovery of his confession statement and that too from the waist of the petitioner, that the petitioner himself sustained blood injuries in the occurrence and admitted in Watrap Government Hospital, that the respondent police had obtained statement from the petitioner at 03.15 p.m. on 26.08.2018, but the injuries of the petitioner were not at all explained nor the actual facts regarding the counter case was not explained by the prosecution, that though FIR was registered in the counter case in Crime No.190 of 2018 and the same was marked as Ex.D.1, the investigating officer has not followed the mandatory Police Standing Order 588(A) and that the learned trial Judge, without considering the above aspects in proper perspective, has recorded the conviction.

9. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner had attacked the defacto complainant and others with knife, that the prosecution through ample evidence has proved the charge under Section 307 IPC and also for the offence under Section 324 (2 counts) IPC against the petitioner and that the learned trial Judge, considering the entire evidence in proper perspective, has rightly recorded the conviction.

10. No doubt, the petitioner's earlier application for suspension of sentence in Crl.M.P.(MD)No.6511 of 2023 was ordered to be dismissed by this Court vide order dated 27.04.2023.

11. It is not in dispute that the petitioner is in jail from 14.02.2023 and he was awarded with 4 years Rigorous Imprisonment for the offence under Section 307 IPC.

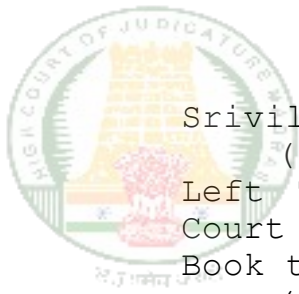
12. It is also not in dispute that the trial Court except the petitioner has acquitted the other accused 2 to 4 under Section 235 (1) Cr.P.C.

13. Considering the fact that there existed property dispute between the parties and also taking note of the fact that co-accused have been acquitted by the trial Court and also the period of incarceration and quantum of punishment imposed, this Court is inclined to suspend the sentence imposed on the petitioner.

14. Accordingly, this Criminal Miscellaneous Petition is allowed and the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

- (i) The 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

<https://www.mhc.trackedjudis> Track Mahila Court, Virudhunagar District at



Srivilliputhur;

(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 trial Court daily on all working days at 10.30 a.m., until further orders 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 of 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/-

30/06/2023

/ TRUE COPY /

03/07/2023

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

csn

TO

1 THE SESSIONS JUDGE, FAST TRACK MAHILA COURT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE, KOOMAPATTI 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.K.MUTHU MALAI, Advocate (SR-9962[I] dated 30/06/2023)

ORDER
IN
CRL MP(MD) No.8008 of 2023
in
CRL A(MD) No.292 of 2023
Date :30/06/2023

RS/SSS/SAR-(03.07.2023) 4P 6C