



CRL MP(MD) No.9593 of 2023

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

Tuesday, the Fifth day of September Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice M.S.RAMESH
and
The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL MP(MD) No.9593 of 2023
in
CRL A(MD)No. 260 of 2023

SURIYAKALA

... APPELLANT/ACCUSED NO.2

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
GANESH NAGAR POLICE STATION,
PUDHUKOTTAI DISTRICT.
(IN CRIME NO.809/2020).

... RESPONDENT/COMPLAINANT

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 sentence imposed against in Spl.S.C.No.42 of 2020 on the file of the Honble Mahila Court,Pudukottai dated 09.06.2022 and release the petitioner on bail till the disposal of the appeal.

Prayer in CRL A(MD)No.260 of 2023:

Pleased to call for the entire records connected to the judgment in Spl.S.C.No. 42 of 2020 on the file of the Hon'ble Mahila Court, Pudukkottai dated 09.06.2022 and set aside the conviction and sentence imposed against the appellant.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments

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of M/S.ALAGUMANI R, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by M.NIRMAL KUMAR, J.]

This petition has been filed to suspend the sentence imposed against the petitioner/A2 in Spl.S.C.No.42/2020 dated 09.06.2022 on the file of the Mahila Court, Pudukkottai and enlarge her on bail pending disposal of the Criminal Appeal.

2. By the said judgment, the petitioner/A2 was convicted and sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,00,000/-, in default, to undergo one year simple imprisonment, for the offence punishable under Section 305 IPC and to undergo life imprisonment and to pay a fine of Rs.1,00,000/- in default, to undergo one year simple imprisonment, for the offence punishable under Section 17 of POCSO (Amendment) Act, 2019.

3. The case of the prosecution is that the petitioner earlier was married to one Murugesan. After the birth of a girl child, the said Murugesan had left her and the petitioner was living alone. The petitioner's daughter was taken care of by the petitioner's father/defacto complainant, P.W.1 for some time and later, she was living with the petitioner. The defacto complainant would visit them and enquire about their well being and due to COVID-19 lockdown period, the defacto



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complainant could not visit his granddaughter. While this being so, the petitioner had developed relationship with Ganesan, A1. On 27.09.2020, the petitioner had informed the defacto complainant through phone that her daughter had committed suicide by hanging and thereafter, the defacto complainant came there and lodged a complaint Ex.P1. A case under Section 174 Cr.P.C was registered. During investigation, A1 had given extra judicial confession to P.W.5, Village Administrative Officer, based on which, A1 was arrested and the petitioner was also enquired and the offences were altered. The petitioner admitted her involvement and she was arrested. After examination of the witnesses and collection of evidences and materials, charge sheet was filed before the Trial Court.

4. Before the Trial Court, on the side of the prosecution, P.W.1 to P.W.11 were examined, Ex.P1 to Ex.P35 were marked and M.O.1 to M.O.11 were produced. Ex.C1 was also marked. On conclusion of trial, the Trial Court convicted the petitioner/A2 as stated above.

5. The contention of the learned counsel for the petitioner is that in this case, none of the witnesses had spoken anything about the petitioner, though the prosecution had attempted to project the case as though the petitioner was having intimate relationship with A1 and that, prior to the date of occurrence, he had given her some juice, mixed with sleeping pills, to the petitioner as well as her daughter



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and thereafter, taking advantage of the same, A1 had attempted forcible sexual assault on the victim girl, for which reason she had committed suicide. For this theory, there is no witness at all.

6. The learned counsel for the petitioner submitted that P.W.1 is the father of the petitioner, who states that after he came to know about the suicide of his granddaughter, he had lodged a complaint and it was the Police, during investigation, who had informed him about certain facts. P.W.2 is a neighbour, who states about the victim being rushed to the hospital. P.W.3 is the administrator of the building complex in which the petitioner and her daughter were residing. The other witnesses are formal witnesses. P.W.5 is the Village Administrative Officer to whom, A1 had given an extra judicial confession, as projected by the prosecution and based on which the petitioner had been included in this case. It is further submitted that P.W.5 admits that he does not know A1 and there is no known relationship between them for A1 to gain confidence and give such a statement. This statement had been obviously created by the prosecution. Based on this statement, the petitioner had been arrested. Hence, the learned counsel submitted that no case has been made out against the petitioner. He further submitted that the postmortem Doctor P.W.7 confirms that the death of the petitioner's daughter was by suicide. The only point is whether the petitioner had abetted her daughter's



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suicide, for which there is no evidence. Hence, the learned counsel prayed for suspension of sentence.

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7. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that in this case, A1 had given an extra judicial confession before the Village Administrative Officer P.W.5, in which, he narrated the consequent events happened in the day prior to the suicide of the victim girl. On the basis of the extra judicial confession, the petitioner was enquired, who corroborated the statement of A1. Further, on the confession of the petitioner, M.O.7, the towel containing semen, was recovered. The learned Additional Public Prosecutor further submitted that the suicide had taken place inside the house of the petitioner and the petitioner was unable to give any proper reason for the suicide of her daughter, who was a minor girl. The points raised by the learned counsel for the petitioner have already been raised during trial and the Trial Court had rejected the same. Therefore, the petitioner's contention can be decided during final hearing. Hence, the learned Additional Public Prosecutor opposed the suspension of sentence application.

8. Considering the submissions made on either side and on perusal of the materials placed before this Court, the case of the prosecution is that the petitioner and A1 had some relationship and A1 indulged in sexual assault on the victim girl



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and the petitioner had abetted the same. There is no material to substantiate the same. Further, the medical evidence is contrary to the evidence projected by the prosecution. Except for the victim girl committing suicide by hanging inside the house of the petitioner, there is no other material. No witness has stated that the petitioner had any knowledge about the act of A1 with her daughter. The medical evidence confirms that except for the presence of alprazolam found in the inner parts, there is nothing more. There are no injuries found on the private parts of the victim girl. Whether the medicine was administered or taken on her own, there is no material with regard to the same and for what purpose, the medicine had been taken by the victim girl is also not considered by the Trial Court. In view of the above, this Court finds that a prima facie case has been made out by the petitioner for grant of suspension of sentence.

9. In view of the same, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioner/A2. 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.10,000/-, with two sureties, each for a like sum to the satisfaction of the Sessions Judge, Mahila Court, Pudukkottai; and



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(ii) The petitioner shall appear before the the Sessions Judge, Mahila Court, Pudukkottai, once in a month on the first working day of every English Calender month at 10.30 a.m. until further orders and if she is not able to appear before the said Court on any day, she 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 her absence, as directed by the said Court.

sd/-
05/09/2023

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08/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

TO

- 1 THE SESSIONS JUDGE
MAHILA COURT, PUDUKOTTAI
- 2 THE INSPECTOR OF POLICE
GANESH NAGAR POLICE STATION,
PUDHUKOTTAI DISTRICT.
- 3 THE OFFICER INCHARGE
SPECIAL PRISON FOR WOMEN, TRICHY
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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+1 CC to M/s.R.ALAGUMANI, Advocate (SR-13300[I] dated 07/09/2023)

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ORDER
IN
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in
CRL A(MD)No. 260 of 2023
Date :05/09/2023

PKP/SAR- /08.09.2023/ 8P/6C

Madurai Bench of Madras High Court is issuing certified
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