



CRL MP(MD) No.10184 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 K.K.RAMAKRISHNAN

CRL MP(MD) No.10184 of 2023

IN

CRL A(MD) No.554 of 2023

1 KRISHNAN

2 MALLIGA

... PETITIONERS/ APPELLANTS

Vs

THE INSPECTOR OF POLICE
PUDHUR POLICE STATION,
THOOTHUKUDI DISTRICT.
CRIME NO.89 OF 2015.

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the petitioner on bail by suspending the sentence imposed upon him S.C.No.232 of 2017 on the file of the learned Sessions Judge, Mahalir Neethimandram(Fast Track Mahila Court), Thoothukudi District dated 30.06.2017 pending disposal of the main

Criminal Appeal.

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



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PRAYER IN CRL.A(MD).554/2023:

Pleased to call for the records in S.C.No.232 of 2017 on the file of the Learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, Thoothukudi District, dated 30.06.2023 and Acquit the Appellant of the Charges leveled against him.

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. SURESH KANNAN.C, Advocate for the petitioner and of Mr.M.VAIKKAM KARUNANITHI, Government Advocate(crl.side) on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This petition is filed to suspend the sentence imposed on the petitioners vide S.C.No.232 of 2017 dated 30.06.2017 on the file of the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi, Thoothukudi District, pending disposal of this Criminal Appeal.

2. The case of the complainant is that on 26.06.2015 at about 06.30 a.m., when the deceased Veerammal gone for taking water from the public tap, the petitioners restrained her by abusing with filthy language and attacked her with broomstick, due



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to which, the deceased, without taking water, went to her house and consumed poison. She was taken to the Government Hospital, Aruppukottai, from there, she was referred to the Government Rajaji Hospital, Madurai, for further treatment. However, on 29.06.2015, she died. Therefore, a complaint was made against the petitioners. On the basis of the complaint, FIR came to be registered in Crime No.89 of 2015 for the offences under Sections 294(b) and 355 of IPC. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 294(b), 355, 306 of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 against the first petitioner and for the offences under Sections 294(b), 355 and 306 of IPC against the second petitioner.

3. During trial, the prosecution has examined 15 witnesses as P.W.1 to P.W.15 and exhibited 17 documents as Ex.P.1 to Ex.P.17. However, neither a witness was examined nor a document was exhibited on the side of the accused.

4. The learned Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, convicted as follows:



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S.No	Accused	Offences under Section	Conviction
1.	Krishnan/ Accused No.1	U/s. 355 of IPC	Sentenced to undergo two years simple imprisonment and to pay a fine of Rs.1000/- in default to undergo three months simple imprisonment.
		U/s.306 of IPC	Sentenced to undergo 10 years of rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo six months simple imprisonment
		Section 4 of Tamil Nadu Prohibition of Women Harassment Act	Sentenced to undergo 3 years simple imprisonment and to pay a fine of Rs.10,000/- in default to undergo three months simple imprisonment.
2.	Malliga Accused No.2	U/s. 355 of IPC	Sentenced to undergo two years simple imprisonment and to pay a fine of Rs.1000/- in default to undergo three months simple imprisonment.



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	U/s.306 of IPC	Sentenced to undergo 10 years of rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo six months simple imprisonment.
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Aggrieved over the same, the petitioners filed present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. The learned counsel for the petitioners would submit that the respondent police falsely registered the case against the petitioners. Further it is submitted that the trial Court ought to have seen that the evidence of the prosecution witnesses is cogent and clear with regard to ill-treatment or harassment. As per the evidence of P.W.1 to P.W.3, there is no specific allegation or averment so as to infer the criminal intention or mens rea on the part of the accused to commit the offence and there is no materials available to show that there was any nexus between the act of the petitioner and the cause of death. The first petitioner is confined at Central prison, Palayankottai, Tirunelveli and the second petitioner is confined at Central prison, Madurai, Special Prison for Women from 30.06.2023. Hence, he seeks suspension of sentence.

6. The learned Government Advocate (Crl.side) appearing for the respondent would contend that the Trial Court has rightly convicted the petitioners on the basis



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of the evidence and the petitioner has no prima facie case in this appeal.

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7. This Court has carefully considered the submission of learned counsel for the petitioner and also perused the materials available on record.

8. This Court considering the special circumstances of the case that according to the petitioners even as per the allegations, there is some trivial issues between the petitioners and the deceased in taking drinking water. Further, the learned counsel for the petitioners pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. So this Court prima facie satisfied that there are arguable points involved in this Criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the first petitioner herein is in custody from 30.06.2023 in Central Prison, Palayankottai, Tirunelveli, and the second petitioner herein is in custody from 30.06.2023, in Central Prison, Maduraim Special Prison for Women, hence, the petitioners are entitled to the relief of grant of suspension of sentence.

9. Accordingly, the relief of suspension of sentence is granted to the petitioners on the following conditions:-

(ii) The petitioners shall execute a bond for a sum of Rs.25,000/-

(Rupees Twenty Five Thousand only) each with two sureties each for a



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like sum to the satisfaction of the learned Judicial Magistrate,
Vilathikulam, Thoothukudi District;

(iii) 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

(iv) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
05/09/2023

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05/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SBN
TO
1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THOOTHUKUDI.

2 THE JUDICIAL MAGISTRATE, VILATHIKULAM.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.



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5 THE SUPERINTENDENT
SPECIAL PRISON FOR WOMEN, CENTRAL PRISON, MADURAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI. (CALL FOR RECORDS)

+1 CC to M/s.C.SURESH KANNAN, Advocate (SR-13262[I] dated 05/09/2023)

ORDER IN
CRL MP(MD) No.10184 of 2023IN
CRL A(MD) No.554 of 2023
Date :05/09/2023

SA/SAR. /05.09.2023/8P/9C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.