



CRL MP(MD) No.10768 of 2023

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

Thursday, the Seventeenth day of August Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN
CRL MP(MD) No.10768 of 2023
in
CRL A(MD) No.614 of 2023

A.MARIAPPAN

... PETITIONER/APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
THATCHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.
CRIME NO.43 OF 2021.

... 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 Suspend the execution of the sentence imposed upon the Appellant/ Accused in Judgement in SC.No.613 of 2021 on the file of the Sessions Court (Mahila Court), Tirunelveli order dated 21.6.2023 and enlarge the Petitioner on bail.

Prayer in CRL A(MD).614 of 2023 :

To call for the records and set aside the order of conviction and sentence passed in S.C.No.613 of 2021 on the file of the Sessions Court (Mahila Court), Tirunelveli vide judgment dated 21.06.2023 and allow this appeal and acquit the Appellant/ Accused from the charge 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.KARTHICK R.J., Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, 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 imposed on the petitioner in S.C.No.613 of 2021 on the file of the learned Sessions



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Judge (Mahila Court) Tirunelveli.

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2. It is the case of the prosecution that the deceased Arumugabala is the daughter of P.W1 and P.W.2, suffering from various health ailments. On 29.01.2021, one Padma (P.W.2), Arunabharathi (P.W.3) and Arockia Selvi (P.W.5) came along with deceased daughter of P.W.1 and P.W2 came to the appellant's house to get natural treatment from the appellant. It is alleged that due to the treatment given by the appellant, the deceased said to have died. Therefore, P.W.1 gave the complaint to the respondent police. The respondent police upon receipt of the complaint, registered in Crime No.43 of 2021 initially for the offence under Section 174 of Cr.P.C., and subsequently altered into 304(A) IPC r/w Section 8 of Tamil Nadu Private Clinical Establishment Act (Regulation Act 1997). After the investigation, the offence was further altered into Section 304 of IPC r/w Section 8 of Tamil Nadu Private Clinical Establishment Act (Regulation Act 1997).

3. The petitioner has been convicted by the learned Trial Judge for the offence under Section 304(ii) of IPC in Spl.Case.No.613 of 2021 dated 21.06.2023 by the learned Sessions Judge (Mahila Court), Tirunelveli and sentenced him to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.30,000/- in default to undergo 6 months Simple Imprisonment.

4. The learned counsel for the petitioner submitted that the petitioner never



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treated the deceased and he only advised to P.W.1 to give proper treatment to the deceased. But, P.W.1 made false allegation, in order to get the compensation as if the petitioner gave native treatment. There was number of contradictions between the evidence of the witnesses. The learned trial judge has not considered the evidence in a proper manner and hence, he prayed to suspend the sentence imposed on the petitioner.

5. The learned Government Advocate (Crl.side) appearing for the respondent would contend that the Trial Court has rightly convicted the petitioner on the basis of the evidence and the petitioner has no prima facie case in this appeal.

6. This Court considered the rival submissions made on either side and perused the materials available on record.

7. According to the petitioner, initially the case was registered under Section 174 and later with huge delay, it was altered on 13.08.2021 and the prosecution failed to prove the ingredients of under Section 304(ii) IPC. The petitioner never gave the treatment to the deceased. It the admitted case before the date of occurrence, deceased already taken a number treatment from various hospitals. Therefore, 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 petitioner



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herein is in custody from 21.06.2023, hence, the petitioner is entitled to the relief of grant of suspension of sentence.

8. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with 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 learned Sessions Judge (Mahila Court), Tirunelveli.

(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 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/-
17/08/2023

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17/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO செய்து அளித்தல்

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1 THE SESSIONS JUDGE, MAHILA COURT, TIRUNELVELI.

2 THE INSPECTOR OF POLICE, THATCHANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

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

ORDER

IN

CRL MP(MD) No.10768 of 2023

in

CRL A(MD) No.614 of 2023

Date :17/08/2023

RS//SAR-(17.08.2023) 5P 5C

Madurai Bench of Madras High Court is issuing
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