



CRL MP(MD) No.14355 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Friday, the Twentieth day of October Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.14355 of 2023
in
CRL A(MD)No.923 of 2023

RADHA SELVAM

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
PANAGUDI POLICE STATION, PANAGUDI,
TIRUNELVELI DISTRICT.
(CRIME No.54/2010)

... 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 sentence imposed on the Appellant by the Judgment dt.25/9/2023 passed in SC No.148/2017, on the file of the Sessions Court(Mahila Court), Tirunelveli and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal.

PRAYER in CRL A(MD)No.923 of 2023:

To call for the records pertaining to the impugned order of the learned Sessions Court(Mahila Court), Tirunelveli dated 25.09.2023 passed in S.C.No.148 of 2017 and set aside the same by allowing this Criminal Appeal.

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 of M/S.RAJESHWARAN K, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent while admitting the Criminal Appeal., the Court made the following order:-



CRL MP(MD) No.14355 of 2023

WEB COPY

Reserved on : 12.10.2023
Pronounced on : 20.10.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the Sessions Court (Mahila Court), Tirunelveli, in S.C.No.148 of 2017, dated 25.09.2023, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the deceased family and the accused family are neighbours and due to money dispute, continuous trouble arose between the two family members. The petitioner used to obloquy about the character of the deceased with her son/third accused, namely, Karthikeyan. The deceased informed the same to her father/P.W.1, P.W.1 questioning the act of the accused Nos.1 to 3, at that time also wordy quarrel arose between the two family members. While so, on 24.01.2010, at about 11.30 a.m., the deceased was preparing hot water in firewood stove. At that time, the petitioner along with the other accused went to the place and abused her and the petitioner/1st Accused took the kerosene kept near the stove and poured the same over the body of the deceased. The Kerosene fell on the firewood stove and caught fire on the body of the deceased and the deceased sustained burn injuries and died on 07.02.2010. Thereby, the accused committed an offence punishable under Section 304 (ii) of Indian Penal Code.



CRL MP(MD) No.14355 of 2023

WEB COPY

3. The respondent police, after completing the investigation, has filed the final report for the offences under Section 304 (ii) of Indian Penal Code against all the three accused. The case was taken on file against the accused Nos.1 to 3 in S.C.No.148 of 2017 on the file of the Sessions Court (Mahila Court), Tirunelveli. Since Accused No.3 was juvenile at that time, the case against the third accused was split up and pending before the Juvenile Justice Board, Tirunelveli. Charge was framed against the first and second accused under Section 304(ii) of Indian Penal Code.

4. During trial, the prosecution has examined 12 witnesses as P.W.1 to P.W.12 and exhibited 17 documents as Ex.P.1 to Ex.P.17. On the side of the accused no witness was examined and no documents were exhibited.

5. The learned Sessions Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment dated 27.09.2023 finding the petitioner/Accused No.1 guilty for the offence under Section 304 (ii) of Indian Penal Code and sentenced her to undergo five years Rigorous Imprisonment and to pay a fine of Rs.25,000/- (Rupees Twenty Five Thousand only), in default, to undergo six months Simple Imprisonment and the second accused was found not guilty and acquitted from the charge. Challenging the above said conviction and sentence, the petitioner/Accused



CRL MP(MD) No.14355 of 2023

No.1 has preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6. The learned counsel appearing for the petitioner would submit that the trial Court failed to consider that P.W.11 had categorically admitted that the victim herself poured kerosene on her body and she got fire while she nearing the firewood stove. Therefore, the prosecution case remains untrue. He further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and the petitioner is in custody from 25.09.2023 and hence, he seeks to allow this petition.

7. The learned Additional Public Prosecutor appearing for the respondent police would submit that there are enough materials available on record against the petitioner and there is no infirmities in the prosecution case and the deceased is aged about 18 years and the petitioner is aged about 53 years at the time of occurrence. He further submitted that in Ex.P7/ dying declaration, the deceased has deposed the whole occurrence clearly and cogently as alleged by the prosecution. Hence, he strongly opposed to grant suspension of sentence.

8. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.



CRL MP(MD) No.14355 of 2023

9. As rightly pointed out by the learned Additional Public Prosecutor appearing for the respondent police apart from the evidence of witnesses, in the dying declaration, the deceased has clearly deposed the entire occurrence and she categorically stated that the petitioner/Accused No.1 poured kerosene on her.

10. Considering the facts and the circumstance of this case and also the gravity of the offence and the manner in which, the offence was committed by the petitioner, I find that such nature of person is not at all entitled for the relief of suspension of sentence at this stage.

11. Hence this Criminal Miscellaneous Petition is **dismissed.**
sd/-

20/10/2023

/ TRUE COPY /

/10/2023

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

TTA
TO

1 THE SESSIONS JUDGE(MAHILA COURT), TIRUNELVELI.

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

3 THE SUPERINTENDENT
SPECIAL PRISON FOR WOMEN, MADURAI.

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



CRL MP(MD) No.14355 of 2023

COPY TO:

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

ORDER
IN
CRL MP(MD) No.14355 of 2023
in
CRL A(MD)No.923 of 2023
Date :20/10/2023

SS/JGB/SAR- /27/10/2023/6P/6C

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