



CRL MP(MD) No.15612 of 2022

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

CRL MP(MD) No.15612 of 2022
IN
CRL A(MD) No.858 of 2022

PARAMESHWARI

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
SIVAKASI EAST POLICE STATION,
VIRUDHUANGAR DISTRICT.
CRIME NO. 851 OF 2020.

... 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 Petitioner/Appellant/Accused in SC.No.34 of 2021 dt.5.9.2022 on the file of the Learned Fast Track Mahila Court, Virudhunagar District at Srivilliputtur and enlarge on bail pending disposal of the Criminal Appeal.

PRAYER IN CRL.A(MD).858/2022:

Pleased to call for the records and set aside the order of conviction and sentence passed in S.C.No.34 of 2021 dated 05.09.2022 on the file of the Learned Fast Track Mahila Court, Virudhunagar District and allow this appeal and acquit the Appellants/Accused from the charge leveled against them.



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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.AZAGARSAMI AK, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondents the court made the following order:-

(Order of the Court was made by M.NIRMAL KUMAR, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 05.09.2022 passed in S.C.No.34 of 2021 on the file of the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, and to enlarge the petitioner/ A3 on bail pending disposal of the above appeal.

2. The petitioner, is arrayed as A3, in S.C.No.34 of 2021 before the Fast Track Mahila Court, Virudhunagar District at Srivilliputhur, and vide judgment dated 05.09.2022, she was convicted for the offence under Section 201 IPC and sentenced to undergo seven years rigorous imprisonment and to pay fine of Rs.5,000/-, in default, to undergo six months rigorous imprisonment.

3. Challenging the aforesaid conviction and sentence, the petitioner has filed Crl.A.No.858 of 2022. Pending disposal of the criminal appeal, she is before this Court with this criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.A.K.Azhagarsamy, learned counsel for the petitioners and Mr.R.Meenakshi Sundaram, learned Additional Public Prosecutor appearing for the



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respondent/State.

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5. It is the case of the prosecution that A1 and A2 were friends. Finding very difficult to eke out their livelihood, they decided to commit robbery. As such on 08.08.2020, at around 01.30 p.m., when P.W.1's wife was alone in her house, which is opposite to the house of A1, A1 and A2 barged into the house of the deceased and both A1 and A2 inflicted cut and stab injuries on her and had taken away the jewels of the deceased. A2 left to his work. A1 with bloodstained clothes and aruval went to his house, where the petitioner questioned him, and A1 narrated the occurrence. Thereafter, it is the case of the prosecution that A1 after concealing the clothes, knife and gold chain gone in search of P.W.1, who is the husband of the deceased. In the meanwhile, P.W.2, who had taken some loan from this petitioner, had come there to repay the same. At that point of time, P.W.2 saw A1 taking his bike and going away. Few minutes thereafter, the petitioner had come to the house of P.W.2 and informed that she saw one person running away from the house of the deceased in suspicious manner and also about the presence of bloodstains. Subsequently the petitioner entered the house of the deceased and informed that the wife of P.W.1 was in an unconscious state. P.W.2, ran shouting, informed P.W.4 to call P.W.1 and inform him about the occurrence. P.W.1 had rushed to the house, where he found his wife murdered and her jewels missing. On the complaint of P.W.1, a case registered.



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P.W.25 conducted the investigation, arrested the accused in the presence of P.W.19.

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On the confession of the accused, the material objects, viz., aruval, jewels and the bloodstained clothes recovered.

6. During trial, on the side of the prosecution, P.W.1 to P.W.26 were examined, Ex.P1 to Ex.P22 were marked besides the materials objects. On conclusion of trial, the accused were convicted and sentenced as stated hereinabove.

7. The contention of the learned counsel for the petitioner is that in this case, the petitioner is the mother of A1, who has been falsely implicated in this case. He would further submit that for the purpose of this case, P.W.1 to P.W.4 are projected as witnesses to implicate her. According to the learned counsel, there is no direct witness with regard to the occurrence and no evidence available to implicate the petitioner herein. The evidence of P.W.1 to P.W.4 is that they came to the place of occurrence later. P.W.1 confirms P.W.4 informed him about the occurrence. P.W.2 does not state about the presence of P.W.3. All the witnesses state that it was P.W.2, who informed them about A3 misleading her. P.W.2 admits that she had not stated this fact, when she was enquired at the first instance on 08.08.2020. Subsequently, an improved version recorded and the statements recorded belatedly. P.W.1 contradicts about the petitioner's misleading. P.W.25 Investigating Officer confirms the contradiction. Further, P.W.25 admits the presence of the petitioner on 08.08.2020 and



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enquired her along with other witnesses. He admits that on the confession of A1 only, the petitioner/A3 was arrested, no recovery from the petitioner. The petitioner was available in her house both on 08.08.2020 and 09.08.2020, which defies the normal conduct of an accused. He would further submit that except the fact that the petitioner is the mother of A1, there is no other linking circumstances available to implicate the petitioner and hence, he prayed for bail.

8. Per contra, the learned Additional Public Prosecutor would submit that the petitioner herein, having known about the occurrence, had intentionally concealed the weapon and apparels of A1 and the jewels of the deceased. According to him, as per the version of P.W.19, who is the witness for arrest and recovery, on the confession of A1, recovery has been made from the house of the petitioner. Further, the petitioner knowing about the occurrence, failed to give the correct information, on the other hand, gave false information to divert the case, in order to save her son, she gave a false version and story. He would further contend that it is a case of murder for gain and the act of the petitioner in concealing the true facts and material objects, confirmed by the evidence of P.W.1 to P.W.4, further, it is a cold-blooded murder and hence, he opposed this petition for suspension of sentence.

9. We have considered the said submissions and perused the materials available on record.



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10. From the materials placed before us, it is seen that there is no circumstances to link the petitioner with regard to the prosecution case there is no direct eye witness to the occurrence, the petitioner was very much available, she was enquired on 08.08.2020, admitted by P.W.25, Investigating Officer. The evidence of P.W.1 and P.W.2 are contradictory. The contradictions in the evidence of P.W.1 confirmed by P.W.25. The case of the prosecution is that, A3 was arrested in this case, based on confession of A1. The petitioner attempted to give false information of the offence, is not supported with acceptable evidence. Except for P.W.1 to P.W.4, no other witness state anything about the petitioner. Moreover, the appeal is not likely to be taken up in the near future and that there are arguable points in favour of the petitioner/accused, accordingly, the petitioner is entitled for the relief of suspension of sentence.

11. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended 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/-, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Mahila Court, Virudhunagar at Srivilliputhur;



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(ii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal 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 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/-
17/08/2023

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21/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RR/SMN2
TO

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

2 THE JUDGE,
MAHILA COURT, VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

3 THE SUPERINTENDENT
CENTRAL PRISON FOR WOMEN, MADURAI.



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4 THE INSPECTOR OF POLICE
SIVAKASI EAST POLICE STATION,
VIRUDHUANGAR DISTRICT.

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

ORDER IN
CRL MP(MD) No.15612 of 2022
IN CRL A(MD) No.858 of 2022
Date :17/08/2023

SA/SAR. /21.08.2023/8P/6C

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