



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

Friday, the Twentieth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.133 of 2023
in
CRL A(MD)No.311 of 2022

PERUMAL

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
M.CHATTRAPATTI (OOMACHIKULAM) POLICE STATION,
MADURAI DISTRICT
(CRIME NO.360 OF 2011)

... RESPONDENT/COMPLAINANT

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 the petitioner in S.C.No.80 of 2015 dated 28.02.2022 on the file of the Sessions Judge, Mahila Court, Madurai and enlarge them on bail pending disposal of above Criminal Appeal.

PRAYER IN CRL A(MD)No.311 of 2022:

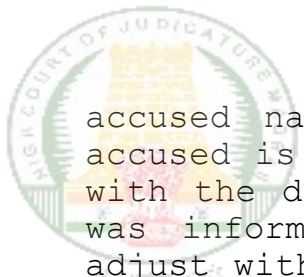
To call for the records and set aside the conviction and sentence passed against them by the Learned Sessions Judge, Mahalir Neethimandram, Madurai District dated 28.02.2022 made in S.C.NO. 80/15 by allowing the present criminal appeal.

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. M.SUBASH BABU, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence imposed against the petitioner/A1 in S.C.No.80 of 2015, dated 28/02/2022 by the Sessions Judge, Mahila Court, Madurai and enlarge the petitioner/A1 on bail pending disposal of the criminal appeal.

2.The case of the prosecution in brief:-

<https://www.mhc.trijud.in/judis> In this case, there are totally four accused. The second



accused namely Lingappan was married to the deceased. It is accused is the father-in-law of the deceased. He himself misbehaved with the deceased and forced her for sexual intercourse. When that was informed to the other accused persons, they advised her to adjust with the first accused. They also instigated the deceased to commit suicide. Due to continuous trouble caused by the accused persons, the deceased committed suicide, on 02/05/2011. Based upon the complaint given by the de-facto complainant, the case was registered.

3. During trial process, 14 witnesses have been examined and 13 documents marked, apart from that, one material object was marked on the side of the prosecution.

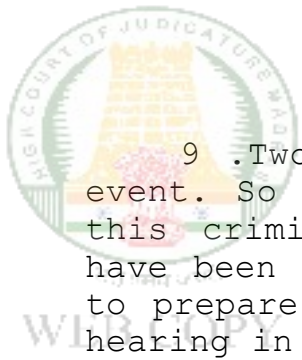
4. At the conclusion of the trial, the trial court held that this petitioner/A1 along with A2 found guilty under section 306 IPC and convicted, sentenced them to undergo 7 years R/I each and imposed a fine of Rs.25,000/- each. Challenging the same, this petitioner along with A2 filed criminal appeal. Pending appeal, petitions have been filed seeking suspension.

5. This is the second application. Earlier, Crl.MP(MD)No.8446 of 2022 in Crl.A(MD)No.311 of 2022 was moved by this petitioner along with his son namely A2-Lingappan. At the time of hearing, petition in respect of this petitioner was not pressed. So it was dismissed. Thereafter, suspension of sentence was granted to A2, who is the son of this petitioner. Now after a lapse of two or three months, this petition has been filed on the ground that even as per the case of the prosecution, there is no evidence to show that sexual harassment was made by this petitioner to the victim namely the daughter-in-law.

6. It is also further contended that the petitioner is in the advanced stage and suffering from several ailments. He would also further submit that even if the allegations are taken on its face value, as per the judgment of the Hon'ble Supreme court in the case of M.Arjunan Vs. State rep. By its Inspector Police (Criminal Appeal No(s).1550 of 2018, dated 04/12/2018, the ingredients of the offence under section 306 IPC are not made out; There was no intention on the part of the petitioner to abet the commission of suicide.

7. No doubt that the petitioner would have abetted the victim girl to commit the suicide. But the point for consideration is whether he has created circumstance, which drove the victim girl to commit suicide, the only point got to be decided in the appeal.

8. When the learned counsel appearing for the petitioner was firm on his point, I asked him, whether he is ready to argue the main appeal itself. But it appears that on health ground, he wants to suspend the sentence.



9 .Two innocents life were lost in the above said unfortunate event. So I find no merit in the suspension petition. Accordingly, this criminal miscellaneous petition is **dismissed**. Since records have been received from the trial court, the Registry is directed to prepare the typed set of papers and list the matter for final hearing in the last week of February' 2023.

sd/-

20/01/2023

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/02/2023

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

ER

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM,
MADURAI DISTRICT.
- 2 THE INSPECTOR OF POLICE
M.CHATTRAPATTI (OOMACHIKULAM) POLICE STATION,
MADURAI DISTRICT
- 3 THE SUPERINTEINDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.133 of 2023
in

CRL A(MD)No.311 of 2022

Date :20/01/2023

PKP/SBN/SAR-2/16.02.2023/2P/5C