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Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.2590 of 2024

in

Crl.A.No.23 of 2022

Suresh @ Muruganantham

...Petitioner/Appellant/Sole accused

Versus

State Rep. by
The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District.
Crime No.72 of 2015

...Respondent/Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] of the CrI.P.C., 1973, to suspend the sentence imposed on the petitioner/appellant by the judgement dated 24.11.2021 passed by the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam in S.C.No.153 of 2015 pending disposal of the above Criminal Appeal.



Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

For Petitioner : Mr.S.Senthil
For Respondent : Mr.A. Gokulakrishnan
Additional Public Prosecutor

ORDER

[Order of the Court was made by SUNDER MOHAN, J.]

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by Judgement and order dated 24.11.2021 passed in S.C.No.153 of 2015 on the file of the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam, and to enlarge the petitioner on bail pending the disposal of the criminal appeal.

2. The petitioner in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
302 IPC	To undergo life imprisonment and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for three months.



Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

3. Challenging the above conviction and sentence, the petitioner has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present petition.

4. Heard Mr.S.Senthil, the learned counsel for the petitioner and Mr.A.Gokulakrishnan, the learned Additional Public Prosecutor appearing for the respondent/State.

5. The case of the prosecution is that the deceased was the wife of the petitioner; that since she suffered from Jaundice, she was living with her parents and taking treatment; that 5 days before the occurrence, the petitioner took the deceased along with her mother to his house promising to give treatment; and that on 24.03.2015 at about 9.00 p.m., suspecting the fidelity of his wife, he stabbed the deceased with a kitchen knife and ran away. The said occurrence is said to have been witnessed by P.W.1.

6. The learned counsel for the petitioner submitted that the prosecution



Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

has not established the case beyond reasonable doubt; that P.W.1 in her cross examination had admitted that she had not witnessed the occurrence and that the extra judicial confession relied upon by the prosecution was typed at the police station which was admitted by the VAO in the cross examination; and that since it was Summer, the petitioner and the deceased were in the habit of keeping the door open while sleeping at night and therefore, the prosecution case that the petitioner caused the death of the deceased cannot be believed. Hence, he prayed for suspension of sentence.

7. The learned Additional Public Prosecutor *per contra* submitted that the petitioner had not offered any explanation about the occurrence which took place in his house and considering the other evidence on record, the trial Court was right in convicting the petitioner and prayed for dismissal of the petition.

8. We have carefully considered the rival submissions and perused the records.



Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

WEB COPY

9. On a perusal of the records, it is seen that P.W.1, mother of the deceased had admitted in her cross examination that she knew about the occurrence only after she woke up early in the morning and at that time, she saw some villagers inside their house. That apart, it is seen from the evidence of P.W.5, VAO that the alleged extra judicial confession said to have been given by the petitioner to the VAO was typed at the police station. Hence, the evidence relied upon by the prosecution suffers from several infirmities and therefore doubtful. We are of the view that the petitioner has a fair chance of success in the appeal.

10. Considering the above and the fact that the petitioner is in custody from 24.11.2021 and the appeal is not likely to be taken up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

11. Accordingly, this criminal miscellaneous petition stands allowed and the sentence of imprisonment is suspended and the sentence imposed



Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

WEB COPY

on the petitioner is suspended on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.25,000/-, with two independent sureties, each for a like sum to the satisfaction of the learned Sessions Judge (Fast Track Mahila Court), Nagapattinam;

(ii) The petitioner and 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 and mobile numbers to ensure their identity; and

(iii) 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.

[M.S.R.,J.] [S.M.,J.]
18.07.2024



Crl.MP.No.2590 of 2024
in Crl.A.No.23 of 2022

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Note: Issue order copy on 22 .07.2024

Copy to:-

1.The Sessions Judge,
(Fast Track Mahila Court),
Nagapattinam.

2.The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District.

3.The Superintendent of Prisons,
Central Prison, Trichy.

4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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Crl.MP.No.2590 of 2024
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SUNDER MOHAN, J
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