



Crl.MP.No.5737 of 2024
in Crl.A.No.1220 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.07.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.5737 of 2024
in
Crl.A.No.1220 of 2022

R.Jeyalakshmi @ Jeya

...Petitioner/3rdAppellant/3rd Accused

Versus

The State of Tamil Nadu
rep. by the Inspector of Police
Annuparpalayam Police Station,
Tiruppur, Tiruppur District.

...Respondent/Respondent/Complainant

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] of the CrI.P.C., to suspend the sentence imposed on the petitioner/3rd accused in S.C.No.90 of 2021 dated 13.09.2022 on the file of the learned Principal Sessions Judge, Tiruppur, and enlarge the petitioner on bail pending disposal of the Criminal Appeal.



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For Petitioner : Ms.J. Selvarajan
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/3rd accused by Judgment and order dated 13.09.2022 passed in S.C.No.90 of 2021 on the file of the learned Principal Sessions Judge, Tiruppur, and to enlarge the petitioner on bail pending disposal of the criminal appeal.

2. The petitioner/3rd accused, in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
302 of IPC	To undergo imprisonment for life and to pay a fine of Rs.2,000/- in default to undergo RI for three months.
201 r/w 302 of IPC	To undergo RI for three years and to pay a fine of Rs.1000/- in default to undergo RI for three months.
Sentences were ordered to run concurrently.	



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

4. It is the case of the prosecution that the first accused is the father of the second accused. The petitioner/third accused is the second wife of the first accused; that the deceased is a small time money lender and the first accused used to borrow money from him; that the deceased attempted to have illicit relationship with the petitioner and used to call her often; that the petitioner complained to the first accused about the advances made by the deceased; that all the accused, therefore, decided to do away with the deceased; that on 07.04.2014, at about 11.45 P.M., the first accused called the deceased to his house, where the second and the petitioner lived; that on 08.04.2014, at about 2.30 A.M., when the deceased went to the house of the accused 1 to 3, all the accused persons attacked the deceased with wooden logs and handle of the hammer and caused his instantaneous death.



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5. The learned counsel appearing for the petitioner submitted that the petitioner/third accused had no motive for the alleged occurrence; that admittedly the petitioner is the second wife of the first accused; that there is no evidence to show that the petitioner was present in the house on the alleged day of occurrence; that the entire case is based on circumstantial evidence; that P.W.4 and P.W.6 were examined by the prosecution to prove the last seen theory; that there is no evidence to prove the other circumstances; that both P.W.4 and P.W.6 have not spoken about the presence of the petitioner in the house or that they last saw the deceased in the company of the petitioner; and that this Court had granted suspension of sentence to A2 by an order dated 17.11.2023 in Crl.M.P.No.9204 of 2023 in Crl.A.No.1220 of 2022. Hence, he prayed for suspension of sentence to the petitioner/third accused.

6. The learned Additional Public Prosecutor, per contra, submitted that it is a fact that the accused 1 to 3 lived in the same house. Therefore, the fact that P.W.4 and P.W.6 saw the deceased coming to the house of the accused 1 to 3 is a strong circumstance against all the accused; that the



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motive of the third accused has also been sufficiently established by the prosecution through other evidence and therefore, prayed for dismissal of the petition.

7. We have carefully considered the evidence on record and the submissions made by the counsel for the petitioner/third accused and the learned Additional Public Prosecutor for the respondent.

8. While considering the petition for suspension of sentence filed by A2, we had made the following observations:

“6. This case is based on circumstantial evidence. P.W.4 and P.W.6 have not spoken about the presence of the second accused on the fateful day. The motive alleged by the prosecution against the second accused also has not been conclusively established. It is a settled position of law that any case based on circumstantial evidence, the circumstances have to be conclusively established and all the circumstances must form a complete chain



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pointing out only to the guilt of the accused, ruling out any other hypothesis. Considering the overall facts and circumstances of the case, this Court is of the view that the circumstances against the petitioner/A2 have not been conclusively established. In our opinion, he has got a fair chance of success in the above appeal. Therefore, we are inclined to suspend the sentence imposed against him.”

This observation will squarely applicable to the petitioner/third accused as well. We are *prima facie* of the view that the circumstances have not been conclusively established by the prosecution.

9. Considering the above, the period of incarceration of the petitioner and that the appeal is not likely to be take up in the near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein/third accused.

10. Accordingly, this criminal miscellaneous petition stands **allowed**



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and the sentence of imprisonment is suspended and the sentence imposed 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 Principal Sessions Judge, Tiruppur, Tiruppur District;

(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 she is not able to appear before the trial Court on any day, she 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.



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[M.S.R.,J.] [S.M.,J.]
05.07.2024

dk

Note: Issue order copy by **09.07.2024**

Copy to:-

- 1.The Principal Sessions Judge,
Tiruppur.
- 2.The Inspector of Police
Annuparpalayam Police Station,
Tiruppur, Tiruppur District .
- 3.The Superintendent of Prisons,
Central Prison Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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