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Crl.MP.No.6384/2022 in Crl.A.No.486/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.6384/2022 in Crl.A.No.486/2022

V.Sankar

.. Petitioner

Versus

State by
The Inspector of Police,
Jolarpet Police Station,
Vellore District.
Cr.No.314 of 2020

.. Respondent

Prayer:-Civil Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence of imprisonment dated 21.04.2022 passed in S.C.No.73 of 2021 by the III Additional District and Sessions, Vellore @ Thirupathur, and enlarge the petitioner/appellant on bail pending disposal of the above Criminal Appeal.



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For Petitioner : Mr.C.D.Sugumar
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor
assisted by
Mr.C.Aravind

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 vide judgement and order dated 21.04.2022 passed in S.C.No.73 of 2021 on the file of the III Additional District and Sessions, Vellore, Thirupathur, and to enlarge the petitioner on bail pending disposal of the appeal.

2. The case of the prosecution is that the appellant and the deceased were husband and there were frequent quarrels between them. When the deceased was in her mother's house, the appellant, on 29.04.2020 at about 3.30 a.m., caused the death of the deceased by throwing a grinding stone on her head.



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3. Heard the learned counsel for the petitioner / sole accused and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

4.Learned counsel for the appellant submitted that the case as projected by the prosecution is false since the injuries on the appellant have not been explained by the prosecution and pointed out the evidence of P.W.1 and the Investigating Officer, P.W.16 in support of his submission.

5.Learned Additional Public Prosecutor, per contra, submitted that the injuries were explained by P.W.1, and therefore, the judgement of trial Court is justified and prayed for dismissal of the petition for suspension of sentence.

6.We have carefully considered the rival submissions and perused the



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records.

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7.Though P.W.1 attempted to explain the injuries on the accused by stating that he sustained injuries while banging his head in the fence, however, in the cross examination, she would admit that the appellant sustained injuries on his head, neck and all over his body. Since he could not be treated at Vellore Government Hospital, he was taken to Chennai Government Hospital, and that they had arranged for an ambulance to take him to a hospital located at Chennai. P.W.16, Investigating Officer also admitted that the appellant was taking treatment in the hospital when he saw him for the first time. However, he has not explained as to how the appellant had sustained the injuries.

8.The above facts would show that the injuries on the accused have not been properly explained by the prosecution and the genesis and origin of the occurrence has been suppressed. Therefore, we are of the view that the petitioner has a fair case of success in the appeal. Since the petitioner is in custody from 09.05.2022, and the appeal is not likely to be taken up in the



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near future, we are inclined to grant the relief of suspension of sentence to the petitioner herein.

9. Accordingly, this criminal miscellaneous petition stands **allowed** 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 III Additional District and Sessions, Vellore @ Thirupathur;
- (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



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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.]
22.02.2024

Anu
Issue order copy by 23.02.2024
Upload the order copy forthwith.

Internet: Yes



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To

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- 1.The III Additional District and Sessions, Vellore @ Thirupathur
- 2.The Inspector of Police,
Jolarpet Police Station,
Vellore District.
- 3.The Superintendent of Prison,
Central Prison, Vellore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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M.S.RAMESH, J

and

SUNDER MOHAN, J

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