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CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2024

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH
AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CrL.MP.No.618 of 2023

in

CrL.A.No.54 of 2023

Karthick

...Petitioner/Appellant

Versus

The State rep. by
The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.
Crime No.26 of 2019

...Respondent/Respondent

Prayer:- Criminal Miscellaneous Petition filed under Section 389 [1] and [2] of the CrI.P.C., 1973, to suspend the sentence imposed on the petitioner/appellant in S.C.No.133 of 2019 on 11.11.2022 on the file of the Learned Sessions Judge, Magalir Neethimandram (Mahila Court) Coimbatore and enlarge the petitioner on bail pending the disposal of the Criminal Appeal.

For Petitioner : Mr.V.Sivakumar
For Respondent : Mr.E.Raj Thilak



CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

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 by Judgment and order dated 11.11.2022 passed in S.C.No.133 of 2019 on the file of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore, 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
498(A) of IPC	To undergo two years of imprisonment and to pay a fine of Rs.1000/- in default to undergo three months of simple imprisonment
302 of the IPC	To undergo imprisonment for life and to pay a fine of Rs.1,000/- in default to undergo simple imprisonment for six months.
Both sentences shall run concurrently	



CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

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.V.Sivakumar, the learned counsel for the petitioner and Mr.E.Raj Thilak, the learned Additional Public Prosecutor appearing for the respondent/State.

5. It is the case of the prosecution that the deceased is the wife of the petitioner; that they had a child by name Pratheek; that since the petitioner had the habit of coming home drunk, quarrelling with the deceased and suspecting her character, there was difference of opinion between the petitioner and the deceased; that the deceased left the matrimonial home along with her son to live with her parents; that the petitioner used to visit his son at the house of the deceased parents; that on 16.01.2019, the petitioner took the child for an outing and dropped the child back at 04.30 p.m. and at that time, an altercation is said to have taken place between the petitioner and the family members of the deceased, when they questioned



CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

WEB COPY

the petitioner as to why he had given ice creams to the child; and that there was a scuffle, the petitioner attacked the deceased, the deceased sustained injuries and succumbed to the injuries on 19.01.2019.

6. The learned counsel for the petitioner submitted that the petitioner was injured in the occurrence which has been admitted by the deceased in her complaint which is dated 18.01.2019; that the prosecution has not sufficiently explained the injuries; that in any case, the evidence reveals that there was a scuffle; that further, the nature of injuries on the deceased would suggest that the petitioner had no intention to cause the death of the deceased and pointed out to the injuries noted in the accident register [Ex.P12] and post mortem certificate [Ex.P10].

(ii) The learned counsel also pointed out that though the occurrence took place on 16.01.2019, the complaint was registered only on 18.01.2019, though it is admitted by the police, that the intimation was sent from the hospital to the police station on 16.01.2019. Hence, he prayed for suspension of sentence to the petitioner.



CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

WEB COPY

7. Learned Additional Public Prosecutor, *per contra* submitted that the incident was witnessed by the parents and the brother of the deceased; that the petitioner has not elicited any fact in the cross examination which would discredit their evidence, and submitted that the petitioner has not made out any case for suspension of sentence.

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

9. Admittedly, though the occurrence took place on 16.01.2019, the complaint was registered only on 18.01.2019. The Investigating Officer has not offered any explanation as to why a case was not registered on 16.01.2019, though an intimation was sent to the police station. In the complaint, which was given by the deceased herself registered on 18.01.2019, the deceased would state that the petitioner had attacked her in the head. However, from the entries in the accident register [Ex.P12] and the post mortem certificate, it is seen that there were no head injuries noted. The complaint also says about the injury on the petitioner, which is also



CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

spoken to by the son of the petitioner who was examined as P.W.4. On the reading of the evidence, we are *prima facie* of the view that there was no intention on the part of the petitioner to cause the death of the deceased and the incident has taken place in a heat of passion without premeditation.

10. Considering the above facts and the fact that the petitioner is in custody from 11.11.2022 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 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, Magalir Neethimandram (Mahila Court) Coimbatore;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the



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CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

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.]
02.04.2024

dk
Speaking/Non-Speaking order
Neutral Citation: Yes/No

Note to Registry:

- 1. Issue order copy by 03.04.2024**
- 2. Upload the order forthwith.**



CrLMP.No.618 of 2023
in CrL.A.No.54 of 2023

Copy to:-

- 1.The Sessions Judge,
Magalir Neethimandram (Mahila Court), Coimbatore.
- 2.The Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.
- 3.The Superintendent of Prisons,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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