



Crl.M.P.Nos.19011 & 19879 of 2023 in Crl.A.No.1446 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 23.02.2024

PRONOUNCED ON : 28.02.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.Nos.19011 & 19879 of 2023
in Crl.A.No.1446 of 2023

1.Rajan

2.Tamilarasi

3.Manimala

... Petitioner in Crl.M.P.No.19011 of 2023
in Crl.A.No.1446 of 2023

4.Vijay

... Petitioner in Crl.M.P.No.19879 of 2023
in Crl.A.No.1446 of 2023

Vs.

The State rep by
Inspector of Police,
HUDCO Police Station,
Krishnagiri District.
(Crime No.467/2018).

... Respondent in both Crl.M.Ps

COMMON PRAYER: Criminal Miscellaneous Petitions have been filed under Section 389(1) of Cr.P.C., to suspend the sentence imposed upon the petitioners by the judgment passed in S.C.No.62 of 2020 dated 16.11.2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri and enlarge the petitioner on bail pending disposal of the Crl.A.No.1446 of 2023.

For Petitioners in Crl.M.Ps : Mr.Adithya Varadarajan

For Respondent in Crl.M.Ps : Mr.C.E.Pratap,
Government Advocate (Crl. Side)

ORDER



Crl.M.P.Nos.19011 & 19879 of 2023 in Crl.A.No.1446 of 2023

Criminal Miscellaneous Petitions have been filed to suspend the sentence imposed on the petitioners/accused by the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri in S.C.No.62 of 2020, dated 16.11.2023.

2.The petitioner in Crl.M.P.No.19879 of 2023 in Crl.A.No.1446 of 2023 is the 1st accused, husband of the deceased Mahalakshmi and the petitioners in Crl.M.P.No.19011 of 2023 in Crl.A.No.1446 of 2023 are father-in-law, mother-in-law and sister-in-law of the deceased Mahalakshmi. For the sake of convenience and clarity, the petitioners are referred to as accused as per their rank in the charge sheet.

3.The conviction and sentence imposed on A1 to A4 are as follows:

- For offence under Section 498(A) of IPC, A1 to A4 to undergo three years Rigorous Imprisonment each and to pay a fine of Rs.1,000/- each, in default to undergo six months Simple Imprisonment each.
- For offence under Section 304(B) of IPC, A1 to A4 to undergo seven years Rigorous Imprisonment each and to pay a fine of Rs.1,000/- each, in default to undergo one year Simple Imprisonment each.



WEB COPY

4.The learned counsel for the petitioners/accused submitted that the marriage between A1 and the deceased was a love-cum-arranged marriage which was held during the month of January 2016. Out of the marriage, they have a baby of 1 ½ years. The admitted case is that after the marriage till the birth of the child, A1 and his wife were living happily, thereafter, misunderstanding arouse, due to demand of dowry. The deceased Mahalakshmi was living along with her husband A1 and her in-laws A2 to A3 as joint family in Chennai. A4 married residing with her family in Tiruvannamalai. It is also admitted that A4 used to visit her parents house only on occasions. Fifteen days prior to the occurrence, the deceased had gone to her parents' house at Hosur. When she was to join her husband, her baby was suffering from chicken pox, hence, she was forced to stay back. On 27.09.2018, she committed suicide by hanging in her parental home using her duppata. This untimely/unnatural death has been projected against the petitioners as though they demanded dowry, caused harassment, due to which, the deceased had committed suicide, which is not true.

5.He further submitted that in the complaint (Ex.P1), there is no



mention about any harassment and demand of dowry. PW1 to PW3 are the father, mother and brother of the deceased who gave exaggerated version implicating accused. When they were examined before the RDO/PW16, they have made bald statements of harassment and demand of dowry. The case was that the baby of deceased and children of A4 were not in equal treatment by A1 to A3. A4's baby was presented with costly gift items and treated preferentially, but the baby of the deceased not properly treated which later manifested as though there was demand of dowry and the deceased was harassed and subjected to cruelty at the hands of A1 to A4, which forced her to commit suicide.

6.It is further submitted that the trial Court proceeded primarily on the alleged suicide note (Ex.P2) which was not produced during the RDO enquiry. Later, it is projected as though it was produced by PW1 and PW2 to the respondent Police. The occurrence is said to have taken place on 27.09.2018, but the said Exs.P2 & P3 sent to the Court only on 07.06.2019 with a delay of nine months. There is no evidence to show that from where and when Exs.P2 & P3 were found and no mahazar produced, nothing is



found in the observation mahazar (Ex.P14). How Ex.P2 the projected suicide note and Ex.P3 taken as admitted writing a letter in the handwriting of the deceased considered and compared is not known. How Ex.P3 a single sheet of paper taken as admitted document and thereafter, placing reliance on the same, compared with Ex.P2 suicide note coupled with the fact that Exs.P2 & P3 were sent nine months after the occurrence to the Court. In view of the same, it cannot be conclusively and safely held that the handwriting found in Ex.P2 is that of the deceased. He further submitted that the deceased is not an ill-literate, she studied school and completed degree and was also employed as Analyst in ACS Health, hence, there will be several writings available. In this case, no other contemporary writings produced.

7.He further submitted that after the death of the deceased, the baby was with the accused and there was also some dispute with regard to the custody of the baby. For this reason, the accused have been falsely implicated in this case. The trial Court ought to have considered the attendant circumstances after the marriage A1 and the deceased were



happily living in Chennai as joint family and fifteen days prior to the occurrence, she had gone to her parents house. Added to it, earlier A1 and the deceased used to visit Hosur on occasions and the deceased had compelled A1 to shift his job and residence to Hosur and she wanted to live along with her parents which was opposed by A1 for the reason that he is the only son and he is duty bound to take care of his aged parents settled in Chennai. For this reason, they had some misunderstanding. The other reasons given by the trial Court on relying upon the evidence of PW10 and Ex.P7 cannot be considered in the absence of the 65B certificate. In view of the same, he prays for suspension of sentence and bail.

8.The Government Advocate (Crl. Side) appearing for the respondent Police filed counter in both the petitions and submitted that PW1 lodged the complaint that her daughter/deceased is her elder daughter and she married A1 and they were blessed with one girl child. After the marriage, the deceased is residing in her matrimonial house along with the accused in Chennai. The accused demanded money from the deceased and harassed her. He further submitted that A3 did not give proper food to the deceased



and the accused regularly harassed the deceased. On 27.09.2018, at about 02.00 p.m., to 05.00 p.m., the deceased hanging herself using duppata in the iron rod and committed suicide and died. On the complaint (Ex.P1), an FIR (Ex.P9) in Crime No.467 of 2018 registered the Inspector of Police attached to the respondent Police Station and the same was forwarded to the Revenue Division Officer/PW16 for enquiry. During the course of investigation, the Deputy Superintendent of Police went to the scene of occurrence prepared Observation Mahazar (Ex.P14), Rough Sketch (Ex.P15) in presence of witnesses, examined family members of the deceased and other witnesses and recorded their statements. PW16/RDO conducted inquest on the body of the deceased and prepared inquest report (Ex.P12) and sent the body for postmortem. On receipt of the enquiry report of PW16 (Ex.P13), the Deputy Superintendent of Police arrested the accused, recorded their confession statements and produced them before the concerned Magistrate for remand. On completion of investigation, charge sheet filed before the learned Judicial Magistrate No.II, Hosur and on committal, it has been transferred to the trial Court and taken on file as S.C.No.62 of 2020. During trial, on the side of the prosecution, eighteen witnesses examined as PW1 to



PW8 and twenty three documents marked as Exs.P1 to P23 and three material objects marked as MO1 to MO3. On the side of the defence, no witness examined and no document marked. On conclusion of trial, the trial Court convicted the accused as stated above.

9.He further submitted that the deceased had written suicide note (Ex.P2) which has been compared with Ex.P3 admitted writings. This suicide note produced by PW1, the mother of the deceased which was sent to the handwriting expert (PW10) who confirmed the writings are one and the same. Hence, the suicide note proved in the manner known to law. The suicide note clearly confirms the manner in which the deceased was subjected to cruelty, harassed demanding dowry which is further corroborated by the evidence of PW1 to PW3 and PW16/RDO and his report (Ex.P13). Admittedly, there was delay in production of Exs.P2 & P3 and forwarding the same to the handwriting Expert (PW10) but mere delay would not throw away Exs.P2 & P2 from consideration. PW10 in his report Ex.P7 confirmed that Exs.P2 & P3 written by one and the same person. The trial Court on the evidence of witnesses and materials produced had rightly



convicted the petitioners. Thus, the prosecution proved the case beyond all reasonable doubt which the trial Court had rightly considered and convicted the accused.

10.Considering the submissions and on perusal of the materials, it is seen that primarily the case rest on the suicide note (Ex.P2) and the evidence of PW1 to PW3 who are mother, father and brother of the deceased. The evidence of PW1 to PW3 are with improvement and embellishment as to their earlier statements given before RDO/PW16. In the complaint (Ex.P1) as well as in the RDO report (Ex.P13), there is nothing against the petitioners except a bald statements. How Ex.P3 considered as admitted document is a questionable one.

11.The allegation against the petitioners is that the daughter of the deceased not equally treated by A1 to A3 as of A4's children in presenting gift articles which later manifested into demand of dowry and settlement of a house property in the name of deceased is projected against the accused. Admittedly, in this case, fifteen days prior to 27.09.2018 i.e, the day on



which the deceased committed suicide, she was staying with her parents at Hosur. On 27.09.2018 morning, when PW1 and PW2 went for their job at 08.00 a.m., she was happy in normal condition. At about 02.00 p.m., when PW1 spoke to her and enquired, she was normal thereafter for what reason she committed suicide is a mystery. PW1 at 05.00 p.m., entered home, found the baby alone playing near the door and her daughter Mahalakshmi found hanging inside the house. Further, Ex.P11, the report not supported with 65B certificate. Hence, the conviction of the accused needs reconsideration and reappraisal.

12. Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioners/accused are suspended till the disposal of the criminal appeal and the petitioners are ordered to be enlarged on bail, on condition that they shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two common sureties to all the accused for a like sum to the satisfaction of the trial Court.

13. Further, A1 and A2 alone shall appear before the Trial Court on



Crl.M.P.Nos.19011 & 19879 of 2023 in Crl.A.No.1446 of 2023

the first working day of once in three months at 10.30 a.m. until the disposal of the criminal appeal and if they are not able to appear before the Trial Court on that day, they 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 their absence as directed by the Trial Court. Accordingly, this Miscellaneous Petitions are ordered.

28.02.2024

vv2

To

- 1.The Sessions Judge,
Fast Track Mahila Court,
Krishnagiri.
- 2.The Inspector of Police,
HUDCO Police Station,
Krishnagiri District.
- 3.The Central Prison,
Vellore.
- 4.The Special Prison for Women,
Coimbatore.
- 5.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.M.P.Nos.19011 & 19879 of 2023 in Crl.A.No.1446 of 2023

M. NIRMAL KUMAR, J.

vv2

Crl.M.P.Nos.19011 & 19879 of 2023
in Crl.A.No.1446 of 2023

28.02.2024