



Crl.MP.No.19664 of 2023
in Crl.A.No.1601 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

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in Crl.A.No.1601 of 2023

Saravanan

...Petitioner/Accused

Vs.

The State Represented by
The Inspector of Police,
Anupparpalayam Police Station
Tiruppur
Crime No.483/2016

... Respondent/Complainant

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner/appellant in the judgment in Sessions Case No.58 of 2018 dated 16.11.2023 on the file of the learned Sessions Judge (Fast Track Mahila Court), Tiruppur, pending disposal of the above Criminal Appeal.

For Petitioner : Mr.B. Arvind Srevatsa
For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by Mr. C. Aravind



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ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner, by the learned Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court), Tiruppur, in S.C.No.58 of 2018, by the judgment dated 16.11.2023, and enlarge him on bail pending disposal of the above Criminal Appeal.

2.The learned learned Sessions Judge, Magalir Neethi Mandram, (Fast Track Mahila Court), Tiruppur, in S.C.No.58 of 2018, convicted the petitioner herein under Section 302 IPC and sentenced him to undergo Rigorous Imprisonment for life and a fine of Rs.10,000/-, in default, to undergo Rigorous imprisonment for one year.

3.Challenging the above conviction and sentence, the petitioner/A1, has filed the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.



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4. Heard Mr.B. Arvind Srevatsa, learned Counsel appearing for the petitioner and Mr.E. Raj Thilak, learned Additional Public Prosecutor, appearing for the respondent/State.

5. The case of the prosecution is that the petitioner married the deceased on 04.06.2009 and at the time of marriage 16 sovereigns of gold jewels were given as dowry; that the petitioner demanded more jewels and also suspected the character of the deceased; that on 22.05.2016, around 07.15 a.m the petitioner called the mother of the deceased and told her that the deceased was unconscious and when the mother (P.W.1) went to the hospital she found her daughter kept in the mortuary; and that initially the case was registered under Section 174(3) Cr.P.C. and subsequently altered to 302 IPC.

6. The learned counsel for the petitioner submitted that the Revenue Divisional Officer (P.W.12), who conducted an enquiry, found that there was no dowry demand; that the prosecution has failed to establish conclusively that the deceased died due to smothering as the recovery of the bed sheet, which is said to have been used for smothering, is highly doubtful; that P.W.7, who is the



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evidence for the recovery, is a chance witness and the explanation offered by him for his presence in the police station at the relevant point of time appears to be artificial; and that there was no blood stains found in the bed sheet, which is said to have been seized. Further the petitioner examined himself as a witness and also examined D.W.2 to show that he was not in his house, when the occurrence is alleged to have taken place i.e. during the night on 21.05.2016, and was in his work place till early morning on 22.05.2016.

7. The learned Additional Public Prosecutor, per contra, submitted that P.W.1 and P.W.2 have spoken about the motive; that P.W.10, the Doctor opined that the deceased died due to smothering; that there was no other person in the residence, which conclusively establish the involvement of the petitioner in the homicidal violence and opposed the petition for Suspension of Sentence.

8. We have carefully considered the rival submissions and perused the records. We find that though P.W.1 had alleged that there was a dowry demand, P.W.12 (Revenue Divisional Officer), found that there was no dowry demand. The petitioner had taken the deceased to the hospital, as could be seen from



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Ex.P6 (Accident Register). The petitioner was examined as D.W.1 and had stated that the deceased was suffering from sinusitis and was taking treatment for the same. He also examined D.W.2 to show that he was in his work place till early morning on 22.05.2016. That apart, we find that the recovery of bed sheet on the confession of the accused appears to be doubtful. P.W.7, the mahazar witness would state that he went to the police station at 11.00 p.m on 23.05.2016 to give a complaint against his employer for non payment of salary, which appears to be artificial. There is no blood stain in the bed sheet. On the overall reading of the evidence, we are of the view that the petitioner/appellant has a fair chance of success in the appeal. We hasten to add that this is an expression of our prima facie view.

9. Considering the above facts and since the petitioner is in incarceration from 16.11.2023 and the appeal is not likely to be taken up in the near future, we are inclined to suspend the sentence on the following conditions:

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



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(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;

(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.)
05.03.2024

bga

Internet : Yes

Index : Yes / No

Note to office : Issue Order Copy on 07.03.2024
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To

1. The Sessions Judge,
Magalir Neethi Mandram (Fast Track Mahila Court),
Tiruppur.
2. The Inspector of Police,
Anupparpalayam Police Station
Tiruppur
Crime No.483/2016
- 3.The Superintendent,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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