



CRL MP(MD) No.4682 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Second day of August Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
and

The Hon`ble Mr.Justice K. RAJASEKAR
CRL MP(MD) No.4682 of 2024

in
CRL A(MD) No.365 of 2024

NAGESHWARI

... APPELLANT/ACCUSED NO.1

Vs

THE INSPECTOR OF POLICE
AAYAKUDI POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO. 245/2015

... RESPONDENT/COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence passed by the learned Additional District and Sessions Judge, Palani in SC no. 76 of 2020 dt. 05.04.2024 and enlarge the petitioner on bail on pending disposal of the criminal appeal.

Prayer in CRL A(MD) No.365 of 2024 :

To calling for the records pertaining to the conviction sentence passed in S.C.No.76 of 2020 on the file of the learned Additional District Court, Palani dated 05.04.2024 and set aside the same as illegal by acquitting this the appellant.

Order : This Criminal Miscellaneous Petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.K.SIVABALAN, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-



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[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

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Seeking to suspend the sentence imposed on the petitioner by the learned Additional District and Sessions Judge, Palani, vide Judgment dated 05.04.2024 in S.C.No.76 of 2020, she has filed this criminal miscellaneous petition.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment	Rs.10,000/-, in default to undergo one year simple imprisonment.

3. The case of the prosecution is that A1 / petitioner herein and the deceased are wife and husband and they got three daughters. The deceased had let his family property on lease and spent the lease amount for his drinking purpose, without giving it to the family. He used to harass his wife (A1). In such circumstances, on 22.07.2015, at about 16.30 hours, the deceased had quarrelled with his wife (A1) and thereby A1 had assaulted her husband with a stick indiscriminately and brought him out of the house. On the next day i.e., on 23.07.2015, at about 05.00 p.m., he was found dead and therefore, all the accused in order to screen the offence committed by A1, had buried the body of the deceased without informing the Police.

4. Learned counsel for the petitioner would submit that the petitioner is the wife of the deceased. Even as per the prosecution case, the allegation levelled against

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the petitioner is that her husband, who is a drunkard, had leased the family property and that he had spent the money, without giving it to the family and had consumed liquor and that he had quarrelled with her, due to which, the petitioner is said to have assaulted him with a stick, resulting in his death and that she along with her relatives are said to have buried the body, without informing the police. He would further submit that the prosecution case rests on the extra judicial confession said to have been recorded from the petitioner, based on which the stick used for assaulting her husband was said to have been recovered. He would further submit that the extra judicial confession is a weak piece of evidence and despite the contradictions in the evidence of the witnesses regarding recovery, the Trial Court had convicted the petitioner. Further, there are several arguable points in favour of the petitioner and the likelihood of the appeal being taken up for final hearing in the near future is also not possible and therefore, he prayed for suspension of sentence.

5. The respondent – Police has filed a detailed counter affidavit.

6. Learned Additional Public Prosecutor appearing for the respondent – Police, on instructions, would submit that the deceased is the husband of the petitioner. The petitioner had grudges against the deceased, since he had used to spend the amount collected on rent for his drinking purpose and thereby, on 22.07.2015, the petitioner had assaulted her husband with a wooden stick indiscriminately, resulting in his death. Later, on the next day, she along with her relatives, in order to screen the



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offence committed by the petitioner, had buried the body of the deceased and the Trial Court, based on the extra judicial confession, had found the petitioner guilty and thereby, he would pray for dismissal of the suspension of sentence application.

7. Heard the learned counsel on either side and perused the materials available on record.

8. Having gone through the records, we find that the petitioner has been convicted based on the extra judicial confession. It is the case of the petitioner that there are contradictions in the evidence of witnesses for the extra judicial confession and recovery, thereby doubting confession. Further, there are arguable points this case. Hence, we are of the opinion that it is a fit case for grant of suspension of sentence to the petitioner.

9. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.25,000/- (Rupees twenty five thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate, Palani.

ii. The sureties shall affix their photographs and Left Thumb Impression in



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the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioner shall appear before the learned Trial Judge at 10.30 a.m., on the first working day of every calender month, until further orders.

sd/-
02/08/2024

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02/08/2024
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

krk

TO

1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE, PALANI.

2 THE JUDICIAL MAGISTRATE, PALANI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE, AAYAKUDI POLICE STATION,
DINDIGUL DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON FOR WOMEN, MADURAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.SIVABALAN, Advocate (SR-9398[I] dated 02/08/2024)



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ORDER

IN

CRL MP(MD) No.4682 of 2024

in

CRL A(MD) No.365 of 2024

Date :02/08/2024

RS//SAR-(02.08.2024) 6P 8C

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