



Crl.M.P.(MD)No.6061 of 2024

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

Tuesday, the Twenty Fifth day of June Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

Crl.M.P.(MD)No.6061 of 2024

in

Crl.R.C.(MD)No.37 of 2020

SIVALINGAM

... PETITIONER/PETITIONER/
SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
VADASERI POLICE STATION,
NAGERCOIL.
(CRIME NO.44/2005).

... RESPONDENT/RESPONDENT

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 and release the petitioner on bail in the conviction and sentence passed in the Judgment in CA No.90/2007 dated 21/6/2016 on the file of the Honble Sessions Judge Fast Track Mahila Court, Nagercoil confirming by the Judgment passed in S.C.No.220/2005 dated 31.05.2007 on the file of the Learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil, pending disposal of the above Criminal Revision petition.

PRAYER IN Crl.R.C.(MD)No.37 of 2020:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to call for the records of the impugned judgment passed in C.A.No.90/2007 dated 21.06.2016 on the file of the Hon'ble Sessions Judge Fast Track Mahila Court, Nagercoil confirming the judgment passed in S.C.No.220/2005 dated 31.05.2007, on the file of the Learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil on the file of the Learned Judicial Magistrate No.II, Nagercoil and set aside the same.



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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 MR.K.VAMANAN, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence and release the petitioner on Bail in the conviction and sentence passed in the Judgment in C.A.No.90 of 2007 dated 21.06.2016 on the file of the Sessions Judge, Fast Track Mahila Court, Nagercoil confirming by the Judgment passed in S.C.No.220 of 2005 dated 31.05.2007 on the file of the learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil, pending disposal of the above Criminal Revision Petition.

2. The case of the prosecution is that marriage between the accused and the complainant solemnized on 09.01.2005 and Rs.1,00,000/- was received by the accused as marriage gift. After few days, the accused demanded the money from the complainant. There were also frequent dispute between the accused and the complainant. The complainant told the same to his brother and the same was compromised by her brother. The accused was always harassed the complainant to give money. One day, when the complainant parents came to the accused house, the complainant consumed Lio toilet cleaner and blood and mucus were coming out of



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the mouth, due to this, the complainant was unable to speak. Immediately, she was admitted to the hospital in a very bad condition and after that she died. The complaint was lodged and FIR was registered against the accused.

3. On the basis of the complaint lodged by P.W.1, a case came to be registered in Crime No.44 of 2005 for the offences under Sections 306 and 498(A) of IPC.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Sections 306 and 498(A) of IPC. The same was taken on file in S.C.No.220 of 2005 dated 31.05.2007 on the file of the learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil and the same was confirmed by the Judgment passed in C.A.No.90 of 2007 dated 21.06.2016 on the file of the Sessions Judge, Fast Track Mahila Court, Nagercoil. Challenging the same, the present revision case has been filed.

5. During trial, the prosecution has examined 16 witnesses as P.W.1 to P.W.16 and exhibited 24 documents as Ex.P.1 to Ex.P.24 and no material objects were marked. However, neither a witness was examined nor a document was exhibited on the side of the accused.



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6. The learned Assistant Sessions Judge/Chief Judicial Magistrate, Nagercoil, after full-fledged trial, has passed the judgment in S.C.No.220 of 2005, dated 31.05.2007 and convicted the petitioner/accused for the offence under Section 306 and sentenced him to undergo 7 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo for 1 month Simple Imprisonment and also convicted the petitioner/accused for the offence under Section 498(A) of IPC and sentenced him to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo for 9 month Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before the learned Sessions Judge, Fast Track Mahila Court, Nagercoil. However, the same was dismissed on 21.06.2016, thereby confirming the punishment imposed on the petitioner. Aggrieved over the above said conviction and sentence, imposed by the Courts below, the petitioner preferred the present Criminal Revision case along with the present Miscellaneous Petition seeking for suspension of sentence.

7. The learned counsel for the petitioner raised only one contention that he is suffering from renal failure. Hence, he seeks suspension of sentence.



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8.The learned Additional Public Prosecutor appearing for the respondent on instruction submitted the following report:

“The above said prisoner Ct.22 Sivalingam S/o.Panchipazham @ Neelakanda Nadar (Age 53/2024) was admitted in Central Prison, Palayamkottai on 27.10.2022. At the time of admission his health condition was stable.

“On 01.02.2024 the above and prisoner was referred to Tirunelveli Medical College Hospital as an emergency op with complaint of upper and lower right limb weakness since evening (CVA). There he was admitted and treated as inpatient for 28 days there he was investigated and diagnosed to have Acute CVA/Lower G1 Bleed/CKD End Stage Renal Disease/Right Hemiparesis/New onset Seizures. Neurologist/Neurosurgery, Nephrology/opinion obtained.

Neurologist - Conservative medication

Neuro surgery - advised antiepileptic drugs

Nephrologist opinion - Salt restriction, Fluid restriction, Strict BP Control, Anti hypertensive measures Renal replacement therapy.



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Vascular Surgery - AV fistula in left brachiocephalic region 7 (seven) cycles of hemodialysis done at Tirunelveli Medical College Hospital.

Cardiologist opinion - obtained and advised continue to regular oral medication for life time and regular heparin free hemodialysis on all alternative Tuesday and Friday.

On 19.06.2024 the above said prisoner was discharged from Tirunelveli Medical College Hospital and admitted in Central Prison dispensary on 19.06.2024. At present his health condition is deteriorating. He is not able to do his daily routine without the support of co-prisoner. He is on liquid diet only. At present his general health and mental status is deteriorating."

9. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

10. Considering the above health condition of the petitioner alone, this Court inclines to grant suspension of sentence.



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11. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Nagercoil; and

(ii) 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 to ensure their identity.

sd/-
25/06/2024

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26/06/2024
Sub-Assistant Registrar (PA-I/AD-II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

RJR

TO
1 THE SESSIONS JUDGE
FAST TRACK MAHILA COURT, NAGERCOIL.

2 THE ASSISTANT SESSIONS JUDGE / CHIEF JUDICIAL MAGISTRATE,
NAGERCOIL.

3 THE JUDICIAL MAGISTRATE NO.II, NAGERCOIL.



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4 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

5 THE INSPECTOR OF POLICE
VADASERI POLICE STATION, NAGERCOIL.

6.THE SUPERINTENDENT
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to M/s.K.VAMANAN, Advocate (SR-6879[I] dated 25/06/2024)

ORDER
IN
Crl.M.P.(MD)No.6061 of 2024
in
Crl.R.C.(MD)No.37 of 2020
Date :25/06/2024

RK (26/06/2024) 8P / 9C

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