



Crl.M.P.(MD) No.8841 of 2023

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

Friday, the Seventh day of June Two Thousand and Twenty Four

PRESENT

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

Crl.M.P.(MD) No.8841 of 2023
in
Crl.A.(MD) No.467 of 2023

NANDHINI

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
ATHANAKKOTTAI POLICE STATION,
PUDUKKOTTAI DISTRICT.
CRIME NO.196 OF 2021.

... RESPONDENT/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 imposed in S.C.No.18 of 2022 on the file of the Principal District and Sessions Judge at Pudukkottai dated 26.10.2022 and release the petitioner on bail pending disposal of the above appeal.

Prayer in Crl.A.(MD) No.467 of 2023:

To call for the records and set aside the conviction and sentence and fine imposed on the appellant by the Principal District and Sessions Judge, Pudukkottai District in S.C.No.18 of 2022 order dated 26.10.2022 by allowing this Criminal Appeal.



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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 M/S.MANIYARASU.K.C, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

The case of the prosecution is as follows:

(i) The accused Nandhini was working at Tiruppur before her marriage. She had a love affair with one Karuppaiah (P.W.10), who is also a resident of Warappur Village, Pudukkottai. However, during Corona, she was given in marriage to the deceased Pandidurai against her wishes and after marriage, the deceased had questioned the accused about her earlier affair and also humiliated her.

(ii) While so, on 20.09.2021, when the deceased was sleeping in a mat (M.O.6), the accused had attacked him with one Aruval (M.O.3), due to which, the deceased sustained serious bleeding injuries and succumbed to the injuries. Subsequently, to screen the offence, the accused had tied the hands of the deceased with her shawl (M.O.9) and dragged the body of the deceased and thrown the body inside the Well of the house and thereafter, she covered the Well with a dust to screen the offence.



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(iii) Originally, on the complaint given by Meenakshi (P.W.1), mother of the deceased, a case in Crime No.196 of 2021 was registered by the respondent – Police under Section 174 Cr.P.C. Subsequently, since smell emanated from the Well of the house, Fire Service was called and the body was recovered from the Well. During enquiry, it came to light that the accused, due to her illicit intimacy with Karuppaiah (P.W.10), had killed her husband with Aruval (M.O.3) and disposed of the body, thereby the case was altered into one under Sections 302 and 201 I.P.C.

(iv) After examining various witnesses and collecting reports from the experts, the Investigating Officer completed the investigation and filed a final report in P.R.C.No.10 of 2021, before the learned District Munsif-cum-Judicial Magistrate, Gandharvakkottai, for the offence under Sections 302 and 201 I.P.C., against the accused.

(v) On appearance of the accused, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the case was committed to the Court of Sessions, Pudukkottai, and it was taken on file in S.C.No.18 of 2022, for trial.



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(vi) The Trial Court, after hearing the accused, framed three charges against them, as detailed below:

Charge	Penal Provisions
1.	302 I.P.C.
2.	201 r/w 302 I.P.C.

(vii) When questioned, the accused pleaded "not guilty". To prove the case, the prosecution examined 14 witnesses and marked 16 exhibits and 11 material objects. The serology report and viscera report were marked as Exs.C1 and C2 respectively. When the accused was questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against her, she denied the same and did not come forward to give any plausible explanation. No witness was examined from the side of the accused nor any document marked.

(viii) By judgment and order dated 26.10.2022, the Trial Court found the accused guilty for the offence under Sections 302 and 201 r/w 302 I.P.C., and convicted and sentenced her, as detailed below:-



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Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment.	Rs.500/-, in default to undergo one year simple imprisonment.
201 r/w 302 I.P.C.	To undergo seven (7) years rigorous imprisonment.	Nil

The sentences imposed on the accused were ordered to run concurrently.

2. Challenging the said conviction and sentence, the accused has filed Crl.A. (MD) No.467 of 2023 and pending the appeal, she has filed the above miscellaneous petition seeking to suspend the sentence imposed on her.

3. Learned counsel for the petitioner would submit that the appellant is the wife of the deceased. The case of the prosecution hinges on the circumstantial evidence. He would submit that the Well, from which the body of the deceased was recovered, is an open well without any parapet wall. The prosecution has failed to prove the chain of circumstances. The allegation of the prosecution is that the accused is said to have inflicted cut injury with Aruval (M.O.3) and committed the murder of her



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husband and thrown the body inside the Well. Whereas, the medical evidence is not conclusive with regard to the cause of death of the deceased. Moreover, it is the admitted case of the Postmortem Doctor (P.W.11) that the alleged weapon was not shown to him at the time of postmortem. Further, as per the evidence of the Postmortem Doctor (P.W.11), the time of death could have been prior to two to four weeks, which does not tally with the evidence of the last seen witness. The Trial Court, without proper analysis of evidence, has found the accused guilty. There are also several other grounds in the appeal and the likelihood of the appeal being taken up for final hearing in the near future is also not possible, thereby he prayed for suspension of sentence.

4. Learned Additional Public Prosecutor appearing for the respondent, on instructions, would submit that it is the case of murdering the husband by his wife. The accused had illicit intimacy with one Karuppaiah (P.W.10). However, she was given in marriage against her wishes to the deceased. There were frequent quarrels and that the deceased had humiliated the accused and thereby, she had committed the murder and thereafter thrown the body of her husband inside the Well.

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

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on record.
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6. A perusal of the materials shows that the accused and the deceased were couples. As per the prosecution version, the accused had a love affair with one Karuppaiah (P.W.10). However, against the wishes of the accused, she was given in marriage to the deceased. Thereafter, the deceased humiliated her by asking about her earlier love affair. Being enraged by the same, the accused had murdered him and thrown the body inside the Well. However, there is no conclusive medical evidence on the side of the prosecution to prove the cause of death. Furthermore, the Postmortem Doctor (P.W.11), in his evidence, has stated that the time of death could have been prior to two to four weeks. However, his evidence is not tallied with the evidence of the last seen witness. Further, though the prosecution claims that the case hinges on the circumstantial evidence, there is no chain of circumstances. It is stated that the accused is in incarceration from the date of conviction. Therefore, taking into consideration the facts and circumstances of the case, we are inclined to suspend the sentence imposed on the petitioner by the Trial Court.

7. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment alone imposed on the petitioner herein is



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suspended, subject to the following conditions:

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- 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 Trial Judge.
- ii. The sureties shall affix their photographs and Left Thumb Impression in 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 report before the learned District Munsif-cum-Judicial Magistrate, Gandarvakkottai, on the first working day of every month, until further orders.

sd/-
07/06/2024

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07/06/2024
Sub-Assistant Registrar (CS -I/ II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

krk

TO

1.THE DISTRICT MUNSIF-CUM-JUDICIAL MAGISTRATE, GANDARVAKKOTTAI.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, PUDUKOTTAI.

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3.THE PRINCIPAL DISTRICT AND SESSIONS JUDGE AT PUDUKOTTAI

4.THE SUPERINTENDENT,
TRICHY CENTRAL PRISON,
TRICHY.

5.THE INSPECTOR OF POLICE
ATHANAKKOTTAI POLICE STATION,
PUDUKKOTTAI DISTRICT.

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

+1 CC to M/s.K.C.MANIYARASU, Advocate (SR-6223[I] dated 07/06/2024)

ORDER
IN
Crl.M.P.(MD) No.8841 of 2023
in
Crl.A.(MD) No.467 of 2023
Date :07/06/2024

RK (07/06/2024) 9P / 8C

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