



CRL MP(MD) No.7316 of 2024

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

Monday, the Thirtieth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C.V.KARTHIKEYAN
and
The Hon`ble Ms.Justice R. POORNIMA

CRL MP(MD) No.7316 of 2024
in
CRL A(MD) No.609 of 2024

AAROKIYASAMI

... Petitioner / Sole Accused

Vs

THE INSPECTOR OF POLICE
PALAYANKOTTAI POLICE STATION,
TIRUNELVELI DISTRICT.
(IN CRIME NO.752 OF 2013)

... 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 against the petitioner in S.c.No.315 of 2018 on the file of the Honble Sessions Judge, Mahalir Neethimantram, Tirunelveli dated on 07.10.2023 and release the petitioner on bail till the disposal of the appeal.

Prayer in CRL A(MD) No.609 of 2024:

To call for the entire records connected to the judgment in the Sessions Judge, Mahalir Neethimantram, Tirunelveli conducted trial in S.C.No.315 of 2018 and on 07.10.2023 and set aside the conviction and sentence imposed against the appellant.



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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.ALAGUMANI.R, Advocate for the petitioner and of Mr.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

This petition had been filed seeking to suspend the sentence imposed on the petitioner, who had suffered an order of conviction in S.C.No.315 of 2018 by the Sessions Court (Mahalir Neethimandram), Tirunelveli, by judgment dated 07.10.2023 to release the petitioner on bail till the disposal of the appeal.

2.The deceased was the wife of the petitioner herein. It is stated that they had recurrent quarrels owing to the addiction of the petitioner to alcohol and demanding money for the same and the deceased, not able to provide the same. On the fateful day, on 06.08.2013, it is stated that she had poured kerosine on herself and had threatened that she would commit suicide. The case of the prosecution is that the petitioner herein had alleviated her difficulty by lighting the match and setting her to fire. Originally, the FIR was registered under Section 309 IPC and thereafter, the deceased was admitted to hospital on 06.08.2013 at around 11.30 am. On the very same day at around 04.20 pm, her dying declaration was recorded by the learned Judicial Magistrate-I, Tirunelveli. The statement made by her in the dying declaration had been very strongly relied on by the learned Additional Public



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Prosecutor.

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3.However, the learned Counsel for the petitioner stated that the deceased was alive from 06.08.2013 till 15.08.2013, when she succumbed to injuries. On the basis of the dying declaration, the FIR was altered to offence under Section 307 IPC and later, on her death, it was further altered to Section 302 IPC.

4.One factor which had been stressed by the learned Counsel for the petitioner is that the accident register had not been produced before the Court and had not been marked as an exhibit.

5.A perusal of the record also reveals that the Doctor who gave the initially treatment and the case records relating to the treatment from 06.08.2013 till 15.08.2013 had been either examined as witness nor have the records been produced during the course of trial. This assumes importance, since the nature of burn injuries and the percentage of burn is not decipherable. More over, the deceased was alive for a period of nearly ten days. Whether there were external factors which led to her death, like inflammation of the injury would also have to be examined. This would require examination of the nature of treatment given.

6.We are informed that there is a child who is now residing with the maternal grandparents. We hope that the petitioner would atleast now reform himself and concentrate on educating the child. However, taking into consideration the fact that



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accident register copy was not produced as an document and the Doctor who gave initial treatment was not examined as a witness, we are of the opinion that there are arguable points to be presented before the Court.

7.In view of that particular fact and also taking into consideration the condition of the petitioner herein who had been suffering incarceration from 07.10.2023, we are inclined to entertain this petition and to suspend the sentence imposed against the petitioners. Accordingly, this Criminal Miscellaneous Petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment, dated 07.10.2023 is suspended subject to the following conditions:-

i.The petitioner/sole accused 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 Principal Sessions Judge, Thanjavur.

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 Principal Sessions Judge, Thanjavur on first Monday of every month until further orders.



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iv. It is made clear that the petitioners shall not enter into the jurisdictional limits of the respondent Police Station until further orders.

sd/-
30/09/2024

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03/10/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CMR

To

1.The Principal Sessions Judge,
Thanjavur.

2.The Sessions Judge,
Mahalir Neethimantram, Tirunelveli.

3.The Inspector of Police,
Palayankottai Police Station,
Tirunelveli District.

4.The Superintendent,
Central Prison, Palayamkottai.

5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.DR.R.ALAGUMANI, Advocate (SR-12027[I] dated 01/10/2024)



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ORDER
IN
CRL MP(MD) No.7316 of 2024
in
CRL A(MD) No.609 of 2024
Date :30/09/2024

ED/ MMS /SAR- (03/10/2024) 6P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023