



Crl.M.P.(MD) No.10742 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Friday, the Twenty Sixth day of April 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.10742 of 2023
in
Crl.A.(MD) No.520 of 2021

CHOZHAN

... PETITIONER/ APPELLANT/
SOLE ACCUSED

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
JEEYAPURAM SUB DIVISION,
JEEYAPURAM POLICE STATION,
TRICHY DISTRICT.
CRIME NO. 389 OF 2017.

... 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 on the Petitioner by the 1st Additional District and Sessions Judge(PCR),Tiruchirappalli in Special SC.No.11 of 2019 dt.29.10.2021 and release the Petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in Crl.A.(MD) No.520 of 2021:

To call for the records and to set aside the judgment passed by the 1st Additional District & Sessions Judge (PCR), Tiruchirappalli in Special S.C.No.11 of 2019 dated 29.10.2021 and acquit the appellant herein.

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.T.LAJAPATHI ROY, Senior Counsel for M/S.KARTHIKEYAN.C, Advocate for



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the petitioner and of MR.R.MEENAKSHI SUNDARAM, 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 petitioner is the husband of the deceased. The deceased belonged to Scheduled Caste, Hindu, Kuravar Community. The petitioner belongs to Backward Class, Hindu, Cholia Vellalar Community. They loved each other and on 02.08.2016, they got married in Vinayakar Temple, Kooduthurai, without the consent of their parents. After their marriage, they were living along with the sister of the deceased in Petrayan Temple Village. Subsequently, they had shifted to a rental house. After the petitioner's wife became pregnant, they came to the petitioner's parental home, wherein they put up a separate coconut strip shed and were residing therein. Subsequently, they blessed with a male child. Thereafter, the petitioner had not taken back his wife and child to the house, where they were living earlier. Therefore, on 16.12.2017, she and the parents of the petitioner lodged a complaint before the All Women Police Station, Jeeyapuram. Subsequently, the Police compromised the matter and sent the deceased along with the petitioner to his house. Due to which, feeling



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humiliated, on 17.12.2017, at about 02.30 a.m., while the deceased was sleeping, the petitioner took a grindstone (M.O.3) and thrown on her head and murdered her. Thereafter, after handing over his child with his parents, the petitioner surrendered before Kalaivani (P.W.1), Village Administrative Officer and gave a confession statement (Ex.P2). After recording the confession statement, the Village Administrative Officer (P.W.1) went to the respondent - Police Station along with the petitioner and lodged a complaint (Ex.P1), based on which, a case in Crime No.389 of 2018 came to be registered under Section 302 I.P.C., against the petitioner. Thereafter, Srinivasan, Deputy Superintendent of Police (P.W.20) took up the investigation and examined the witnesses and filed the final report before the I Additional District and Sessions Court (PCR), Tiruchirappalli under Section 302 I.P.C., r/w 3(2)(v) SC/ ST (POA) Act, 1989 against the accused.

(ii) On appearance of the accused, the provisions of Section 207 of the Code of Criminal Procedure were complied with and the Trial Court, after hearing the accused, framed a charge for the offence under Section 302 I.P.C., r/w 3(2)(v) SC/ ST (POA) Act, 1989 against the accused.

(iii) When questioned, the accused pleaded "not guilty". To prove the case,



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the prosecution examined 20 witnesses and marked 15 exhibits and 04 material objects. When the accused were questioned under Section 313 of the Code of Criminal Procedure on the incriminating circumstances appearing against him, he 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.

(iv) By judgment and order dated 29.10.2021, the Trial Court found the accused not guilty for the offence under Section 3(2)(v) of SC/ST (POA) Amendment Act, 2015 and acquitted him from the said charge, however, found him guilty for the offence under Section 302 I.P.C., and convicted and sentenced him, as detailed below:-

Section of Law	Sentence of imprisonment	Fine amount
302 I.P.C.	To undergo life imprisonment.	Rs.5,000/-, in default to undergo three months rigorous imprisonment.



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2. Challenging the said conviction and sentence, the accused has filed an appeal in Crl.A.(MD) No.520 of 2021 and pending the appeal, he has filed the above miscellaneous petition seeking to suspend the sentence imposed on him.

3. Learned Senior Counsel appearing for the petitioner would submit that the case on hand is based on the extra judicial confession statement (Ex.P2) said to have been made by the petitioner before the Village Administrative Officer (P.W.1) on 17.12.2017 at 06.30 a.m. Other than the said extra judicial confession statement (Ex.P2), there is no other material to connect the petitioner with the alleged occurrence. The Trial Court finding that the deceased is the wife of the petitioner and the petitioner had not given any complaint / information to the respondent - Police had found the petitioner 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 - Police would submit that since the petitioner and wife / deceased were living in the same house and the petitioner had murdered his wife in the house by throwing a grindstone on her head, the burden of proof is cast on him, thereby the Trial Court



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rightly finding that the petitioner had committed the offence had found him guilty and hence, he would seek for dismissal of this miscellaneous petition.

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

6. A careful perusal of the materials available on record shows that according to the prosecution, on 17.12.2017, at about 02.30 a.m., the petitioner had murdered his wife by throwing a grindstone on her head. Thereafter, he had voluntarily surrendered before the Village Administrative Officer (P.W.1) and gave a confession statement (Ex.P2) at 06.30 a.m., in her office. Based on the said confession statement (Ex.P2), she (P.W.1) lodged a complaint (Ex.P1) before the respondent – Police and pursuant to the said complaint (Ex.P1), the first information report (Ex.P11) has been registered. On scrutiny of the materials available on record, we find that absolutely there is no material other than the extra judicial confession statement (Ex.P2) to connect the petitioner with the alleged occurrence. It is stated that the petitioner is in incarceration for the past three years. 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.



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7. 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 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 respondent - Police daily at 10.30 a.m. until further orders.

sd/-
26/04/2024

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29/04/2024
Sub-Assistant Registrar (CS -II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

KRK



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TO

1. THE 1ST ADDITIONAL DISTRICT AND SESSIONS JUDGE(PCR),
TIRUCHIRAPPALLI

2.THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

3.THE DEPUTY SUPERINTENDENT OF POLICE,
JEEYAPURAM SUB DIVISION,
JEEYAPURAM POLICE STATION, TRICHY DISTRICT.

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

+1 CC to M/s.C.KARTHIKEYAN, Advocate (SR-4950[I] dated 26/04/2024)

ORDER IN
Crl.M.P.(MD) No.10742 of 2023
in Crl.A.(MD) No.520 of 2021
Date :26/04/2024

RK (29/04/2024) 8P / 6C

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