



CRL MP(MD) No.8417 of 2024

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

Thursday, the Nineteenth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.8417 of 2024

in

CRL A(MD)No.551 of 2024

ENAGARSAMY ... APPELLANT/SOLE ACCUSED
(NOW CONFINED AS CONVICT PRISONER
IN MADURAI CENTRAL PRISON)

Vs

THE INSPECTOR OF POLICE
SOOLAKARI POLICE STATION
VIRUDHUNAGAR DISTRICT.
(IN CRIME NO.24/2018.)

... 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 and release him on bail pending disposal of the main Criminal Appeal before this Honble Court against the Judgment of the Honble Sessions Judge, Fast Track Mahila Court, Dindigul in S.C.No.61 of 2021 dated 13.02.2024.

PRAYER in CRL A(MD)No.551 of 2024:

To call for the records connected with the judgment rendered by the Hon'ble Sessions Judge,(Fast Track)Mahila Court, Virudhunagar Dsitric at Srivilliputhur in S.C.No.61 of 2021 and on 13.02.2024 and set aside the same and consequently acquit 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.PRAKASH.R, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Fast track Mahila Court, Dindigul, in S.C.No.61 of 2021 dated 13.02.2024 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the accused in this case, has been convicted by the learned Sessions judge, for the offence under Section 294(b) of IPC and sentenced to undergo 3 months simple imprisonment and found guilty under Section 354(A)(1)(i), 354(A)(1)(ii) of IPC and sentenced to undergo rigorous imprisonment for one year each and to pay a fine sum of Rs.1,000/- each in default to undergo simple imprisonment for 3 months each and found guilty under Section 306 of IPC and sentenced to undergo rigorous imprisonment for 10 years and to pay fine sum of Rs.5,000/- in default to undergo rigorous imprisonment for 1 year and found guilty under Section 4(A) of Tamil Nadu Prohibition of Women Harassment Act and sentenced to undergo rigorous imprisonment for 10 years and to pay fine sum of Rs.50,000/- in default to undergo



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rigorous imprisonment for 2 years, in S.C.No.61 of 2021 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dindigul. Both the sentence were ordered to be run concurrently and the set off under Section 428 Cr.P.C. was also ordered.

3.The case of the prosecution in brief:

The case of the prosecution in brief is that the deceased Selvi was mentally ill person. Some two years prior to the occurrence, the accused person trespassed into the house, misbehaved sexually with the deceased. Over that occurrence, the father of the deceased lodged a complaint before the Soolakarai Police Station and the same is pending. From that date onwards, the accused was inimical towards the complainant and the deceased. Another occurrence took place some two weeks prior to the present occurrence. Over which also, a case is pending before the learned Judicial Magistrate No.II, Virudhunagar. On 14.01.2018 at about 3.00 p.m., he abused the victim girl in filthy language and abducted her to commit suicide. The above said abuse continued for several days, that too in public place. Unable to bear the continuous torture made by the accused, the deceased committed suicide by self immolation. She was admitted in the Madurai Government Rajaji Hospital and dying declaration of the deceased was also recorded. On the basis of the same, FIR came to be registered in Crime No.24 of 2018.



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4. During the trial, the prosecution has examined 19 witnesses as P.W.1 to P.W.19, exhibited 17 documents as Ex.P1 to Ex.P17 and marked material object as M.O.1, whereas the accused have adduced neither oral nor documentary evidence.

5. At the conclusion of the trial, the trial Court came to the finding that the charge that was framed against the accused person was proved beyond all reasonable doubts. On that basis, the accused was found guilty and convicted and sentenced above. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner. Pending appeal, earlier the petitioner has filed a petition seeking suspension of sentence and that was dismissed by this Court. Now this is the second application filed by the petitioner.

6. Now seeking suspension of sentence this petition has been filed by the petitioner stating that the mental illness of the victim girl is not established by subjected her to medical examination by the investigation officer. She was very hale and healthy some two days prior to the occurrence. A case in Crime No.537 of 2017 was filed regarding the prior occurrence and the petitioner is no way responsible for the suicide.

7. Per contra, learned Additional Public Prosecutor would submit that because of the continuous trouble made by the petitioner, two cases were registered one in Crime No.49 of 2015 another in Crime No.24 of 2015. In spite of registration of



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several FIRs against the petitioner, he has not corrected himself and continued to give torture. Because of that only the victim committed self immolation. Accordingly, enough materials were placed before the trial Court and so no leniency may be shown.

8. Perusal of entire records shows that the victim was subjected to continuous torture by the accused due to the previous motive and it is a gruesome suicide by setting fire herself. There was a continuous trouble existed between the accused and the deceased family.

9. Considering the above said factual aspects, this petition deserves to be dismissed. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
19/09/2024

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/09/2024

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

PNN
TO

1 THE SESSIONS JUDGE,
(FAST TRACK)MAHILA JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



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2 THE INSPECTOR OF POLICE
SOOLAKARI POLICE STATION
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

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

ORDER
IN
CRL MP(MD) No.8417 of 2024
in
CRL A(MD)No.551 of 2024
Date :19/09/2024

SS/VR/SAR- /24/09/2024/6P/5C

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