



CRL MP(MD) No.9689 of 2024

WEB COPY

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

Thursday, the Seventeenth day of October 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.9689 of 2024
in
CRL A(MD) No.843 of 2023

KALIRAJA

... Petitioner / Appellant

Vs

THE DEPUTY SUPERINTENDENT OF POLICE,
RAJAPALAYAM SUB DIVISION,
SETTHUR RURAL POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO. 36 OF 2014)

... 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 imposed by the Learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No. 104/2015 dated 20.06.2023 and enlarge the petitioner/sole accused on bail, till the disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.843 of 2023:

To admit this appeal on file and call for the records from the lower Court and



CRL MP(MD) No.9689 of 2024

set aside the Judgment passed by the learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.104 of 2015 dated 20.06.2023 by allowing this appeal.

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.MAYA PERUMALS, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor, on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition has been filed by the sole accused in S.C.No.104 of 2015 who has been convicted for offence punishable under Sections 498(A) and 304(b) IPC and sentenced to undergo three years rigorous imprisonment and fine of Rs.1,000/- in default three months rigorous imprisonment for offence punishable under Section 498(A) IPC and sentenced to undergo life imprisonment and fine of Rs.5,000/- in default six months rigorous imprisonment for offence punishable under Section 304(b) IPC, by judgment, dated 20.06.2023 by the Sessions Court/Fast Track Mahila Court, Virudhunagar at Srivilliputhur, seeking suspension of sentence.

2. It is the case of the prosecution that the deceased, wife of the accused/appellant herein and the appellant had married on 15.04.2013. At that time, the deceased was just 19 years old and was a student. The accused was



CRL MP(MD) No.9689 of 2024

studying in Engineering, but he discontinued his studies. He wanted to do business. It was a love marriage. After the marriage, in order to do business, it is alleged that he had demanded dowry. Frustrated, it is stated that the deceased consumed oleander seeds (அரளி விதை) on 22.04.2014 and was admitted to hospital, but in spite of treatment given, died on 24.02.2014. It is also to be mentioned that the mother of the deceased had earlier died and her father had remarried and therefore, she was under the care and protection of P.W.1, grandmother.

3. P.W.1 had lodged a complaint, consequent to which FIR in Crime No.36 of 2014 had been registered on 25.02.2014 initially under Section 174 Cr.P.C. Later an alteration report was filed, altering the offence to Section 498(A) and 304(b) IPC.

4. In order to prove the charges, the prosecution had examined P.W.1 to P.W.21 witnesses and also marked Ex.P.1 to Ex.P.18. They also produced one material object M.O.1 which were the oleander seeds (அரளி விதை).

5. The learned counsel for the petitioner pointed out the evidence of P.W.17, the Revenue Inspector who had conducted an enquiry immediately after the death, since the death occurred within 7 years from the date of marriage and in her report had stated that there is no evidence of there being demand for dowry.

6. The learned counsel also pointed out that the viscera report, wherein,



CRL MP(MD) No.9689 of 2024

WEB COPY

though during post mortem, the samples had been sent for chemical examination, the viscera report did not show the presence of poison.

7. But the learned Additional Public Prosecutor, however, stated that there is a every possibility of the oleander seeds (அரளி விதை) being flushed outside the body owing to the treatment given.

8. With respect to the witnesses who had been examined, quite apart from P.W.1, the prosecution also placed reliance on the statement of P.W.2 and P.W.3, who also talked about the demand for dowry.

9. It is also pointed out that in the report of the Revenue Divisional Officer, the witnesses have also stated about the demand for dowry, but it is not known under what circumstance the witness stated about the demand for dowry and on what basis the report was issued about there being no demand for dowry. But however, we find that the date of judgment is 20.06.2023.

10. The learned Additional Public Prosecutor further pointed out that earlier application has been filed seeking suspension of sentence and the same had been withdrawn by the learned counsel.

11. We find that from the date of judgment, nearly about 1½ years have now passed by. The points raised could be argued in the arguments in the Criminal Appeal. On the basis of fact that the viscera report is in conclusive and on the basis



CRL MP(MD) No.9689 of 2024

of the evidence of P.W.17, we would state that an arguable case is available for arguing the Criminal Appeal. On that ground, we would grant suspension of sentence.

12. Accordingly, this Criminal Miscellaneous Petition is ordered and the imprisonment ordered by the trial Court through the impugned judgment, dated 20.06.2023 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 relative, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar at Srivilliputhur.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioner shall report before the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar at Srivilliputhur, in the first working day of every English calendar month at 10.30 a.m., until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under



CRL MP(MD) No.9689 of 2024

WEB COPY

Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-
17/10/2024

/ TRUE COPY /

17/10/2024

Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

RM

To

1.The Sessions Judge,
Fast Track Mahila Court,
Virudhunagar District at Srivilliputhur.

2.The Deputy Superintendent of Police,
Rajapalayam Sub Division,
Setthur Rural Police Station,
Virudhunagar District.

3.The Superintendent,
Central Prison, Madurai.

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

+1 CC to M/s.S.MAYAPERUMAL, Advocate (SR-12607[I] dated 17/10/2024)

ORDER

IN

CRL MP(MD) No.9689 of 2024

in

CRL A(MD) No.843 of 2023

Date :17/10/2024



CRL MP(MD) No.9689 of 2024

ED/ /SAR- (17/10/2024) 7P / 6C

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