



CRL MP(MD) No.13060 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Fifth day of July Two Thousand and Twenty Four

PRESENT

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

The Hon`ble Mr.Justice K. RAJASEKAR

CRL MP(MD) No.13060 of 2023

IN

CRL A(MD) No.833 of 2023

ANTONYRAJ

... Appellant / Sole Accused

Vs

THE INSPECTOR OF POLICE
MANUR POLICE STATION,
TIRUNELVELI DISTRICT.
(CRIME NO.355/2020).

... 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 passed against the petitioners by the Learned Sessions Judge, Mahila Court, Tirunelveli, Tirunelveli District in SC No.210/2021 dt.5/7/2023 and enlarge the petitioner on bail pending disposal of the above criminal appeal.

Prayer in CRL A(MD) No.833 of 2023:

To call for the records set aside the judgment and conviction passed by the learned Sessions Judge, Mahila Court, Tirunelveli, Tirunelveli District in S.C.No.210 of 2021 dated 05.07.2023 and acquit the appellants herein.



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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.DHILIPAN PANDIAN.R.L., Advocate for 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 present petition has been filed by the appellant/sole accused to suspend the sentence imposed on him by the learned Sessions Judge, Mahila Court, Tirunelveli in S.C.No.210 of 2021.

2. The petitioner stands convicted and sentenced as under:

Section of Law	Sentence of imprisonment	Fine amount
449, 294(b) and 302 IPC	To undergo 10 years rigorous imprisonment, 2 months rigorous imprisonment and life imprisonment	Rs.5,000/- in default to undergo three months simple imprisonment Rs.100/- in default to undergo two weeks simple imprisonment Rs.5,000/- in default to undergo three months simple imprisonment
The sentences shall run concurrently		

3. The case of the prosecution is that the petitioner/accused is cousin brother of the P.W.1/Vadivelkumar and the accused suspected his wife that she is



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in illegal relationship with the P.W.1 and developed enmity with the P.W.1's family.

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On 22.07.2020 at about 07.00 p.m., when the P.W.1 was returning to his house after completing work the petitioner/ accused has sharpening the Aruval in a street uttering loudly that "Today he wanted to kill a bastard". At ththat time, the mother of the P.W.1/deceased Anthoniammal asked the P.W.1 to buy a cement for flooring her house and hence, the P.W.1 parked his vehicle in front of his house and went to the Hardwares run by P.W.4/Chelladurai by walking and after making conversation with P.W.4 he returned to his house at about 07.45 p.m. At that time, the P.W.1/Pitchumani was standing in front of his house and crying loudly. When the P.W.1 enquired his aunt/P.W.2 she replied him that while she was returning to her house after work at 07.30 p.m., there was a huge noise from P.W.1's tin sheet door of his house and she enquired about the same with P.W.3/Anthony, she was informed that the petitioner/accused was shouting that if he murdered this Bastard no one will see his wife and trespassed into the house of P.W.1. Immediately, the P.W.2 rushed to the house of P.W.1 where the accused came out from the house of P.W.1 with blood stained aruval. Immediately, the P.W.2 asked the accused as what he done her Aunt Anthoniyammal, the accused threatened the P.W.2 with dire consequences that if she come near to him, he will kill her. Subsequently, when she went inside the house of P.W.1 she found that the deceased Anthoniyammal was



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found dead with cut injuries on her head, left wrist and thereby, the petitioner/accused has committed the offence punishable under Sections 294(b), 449, 302 and 506(ii) IPC.

4. The learned counsel appearing for the petitioner would submit that this is a case of circumstantial evidence. As far as P.W.1 is concerned, he has got grudges against the petitioner. The presence of the P.Ws.1,2 & 4, who stated to have seen the accused after occurrence, is doubtful. The prosecution has failed to prove the chain of circumstances in order to prove the guilty of the accused. The petitioner has also examined his wife as D.W.1 to prove his case. He would also submit that the petitioner is in custody from the date of judgment hence, he seeks for indulgence of this court and prayed for granting suspension of sentence.

5. The respondent filed counter affidavit. The learned Additional Public Prosecutor appearing for the respondent would submit that though there is no eye witnesses to the occurrence, the prosecution by cogent evidence of P.Ws.1,2 & 4 has proved the case beyond reasonable doubt and the trial Court has rightly convicted the accused and he would object for grant of sussion of sentence.

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

7. Having regard to the fact that there are arguable points involved in the



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appeal and further, the appeal is not likely to be taken up for final hearing in the near future and also considering the period of incarceration and also 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 pending the Appeal.

8. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner herein alone is suspended pending the Appeal, 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 each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Tirunelveli District.
- 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; and
- iii. The petitioner shall stay at Madurai and report before the Othakadai Police Station, Madurai District daily at 10.30 a.m., until further orders.



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

sd/-
05/07/2024

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05/07/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AM

To

1.The Sessions Judge,
Mahila Court,
Tirunelveli District.

2.The Inspector of Police,
Manur Police Station,
Tirunelveli District.

3.The Superintendent,
Central Prison,
Palayamkottai.

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



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The Inspector of Police,
Othakadai Police Station,
Madurai District.

+1 CC to M/s.R.L.DHILIPAN PANDIAN, Advocate (SR-7492[I] dated 05/07/2024)

ORDER
IN
CRL MP(MD) No.13060 of 2023
IN
CRL A(MD) No.833 of 2023
Date :05/07/2024

ED/ /SAR- (05/07/2024) 7P / 7C

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