



CRL.M.P.(MD)No.11452 of 2024

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

Thursday, the Seventh day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE G.ILANGO VAN

CRL.M.P.(MD)No.11452 of 2024

in

CRL.A.(MD)No.880 of 2024

1 SURESH

...APPELLANT/ ACCUSED NO.1

2 ARJUNAN

... APPELLANT/ ACCUSED NO.2

Vs

THE STATE OF TAMIL NADU

REP BY THE DEPUTY SUPERINTENDENT OF POLICE,

PUTHUKADAI POLICE STATION,

COLACHEL DIVISION,

KANYAKUMARI DISTRICT.

CRIME NO. 201/2008

... RESPONDENT/COMPLAINANT

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 by learned Sessions Judge, Fast track Mahila court, Nagercoil camp at Kuzhithurai, Kanyakumari district in S.C No. 148/2009 dt. 09.10.2024 pending disposal of the criminal appeal

PRAYER IN CRL.A.(MD)No.880 of 2024:

To calling for the records pertaining to the conviction sentence passed in S.C.No.148 of 2009 on the file of the learned Sessions Judge, Fast Track Mahila court, Nagercoil camp at Kuzithurai, Kanyakumari District dated 09.10.2024 and set aside the same as illegal by acquit this the Appellant.



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Order: This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.DEEPAK.F, 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, Nagercoil camp at Kuzhithurai, Kanyakumari District in S.C.No.148/2009 dated 09.10.2024.

2. The learned counsel for the petitioner submitted that the petitioner, who is the first accused in this case, has been found guilty and convicted by the learned judge, for the offence under Section 498A of IPC, sentenced to undergo rigorous imprisonment of two years and to pay a fine of Rs.1000/- and in default shall undergo six months simple imprisonment and the accused is convicted under Section 304 B of IPC and ordered to undergo rigorous imprisonment for seven years and to pay a fine of Rs.1000/- and in default, to undergo 6 months of simple imprisonment. Set off under Section 428 Cr.P.C. was also ordered.

3. The case of the prosecution in brief is that the deceased was married to this petitioner on 12.11.2007 as per the customary rites. At the time of marriage, 10



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sovereigns of gold jewels, 1 1/2 acres of land was given as Sridhana to the deceased.

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The land belongs to the Government. After the marriage, the accused demanded sale of the property and caused torture. On the date of the occurrence, the first accused alleged to have assaulted the deceased asked her to go to her parental home and bring money, criminally intimidated her not to stay in the house when he returns from the office on the previous day of the occurrence. On 02.06.2008 at about 7.00 a.m., again the petitioner / first accused alleged to have caused assault and went for bathing. After returning to home, again he assaulted and went away. Because of the continuous torture made by the accused, the deceased committed suicide by pouring kerosene and set herself on fire. Based upon the complaint given by the defacto complainant, a case was registered. Seeking suspension of sentence this petition is filed by the petitioner herein.

4. Learned counsel for the petitioner would draw the attention of this Court as to the real issue between the husband and wife, to the evidence of P.W.2 etc. According to him, even as per the evidence of the mother of the deceased, the land was given only as sridhana to the deceased. She only demanded the sale of the property and the profits. Since because the land belongs to the Government, no sale could be effected. But the deceased insisted her parents to give money by selling the



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property. According to him, the evidence of P.W.4 clearly supports the case of the accused. So according to him, nothing happened as mentioned by the prosecution on the date of occurrence. Only these petitioner tried to extinguish the fire and took the deceased to the hospital. She committed suicide because of the fact that the parents could not arrange money by selling the property for which this petitioner has been penalized.

5. Per contra, learned Government Advocate (Crl.) would submit that the dying declaration of the deceased was taken into account by the trial Court to record a finding of guilt against the accused. It is supported by proper evidence. So it requires no interference.

6. Without going into the other aspects, more particularly regarding the evidence of P.W.4, the dying declaration stands against the petitioner herein. She has narrated sequence of events and the torture made by this petitioner. Whether the dying declaration is a reliable one or not, is a matter for consideration at the time of appeal. Moreover, the judgment is also a recent origin. Therefore, apart from other aspects, this is too early to consider this petition seeking suspense of the sentence imposed upon the petitioner herein.



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7. Accordingly, this Criminal Miscellaneous petition is dismissed.

sd/-
07/11/2024

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/12/2024

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

PNN
TO

1.THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
NAGERCOIL CAMP AT KUZITHURAI,
KANYAKUMARI DISTRICT

2.THE DEPUTY SUPERINTENDENT OF POLICE,
PUTHUKADAI POLICE STATION,
COLACHEL DIVISION,
KANYAKUMARI DISTRICT

3.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1. C.C. to M/S.DEEPAK.F Advocate SR.No.63654 DATED 08.11.2024



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ORDER
IN
CRL.M.P.(MD)No.11452 of 2024
in
CRL.A.(MD)No.880 of 2024
Date :07/11/2024

RK/VR (29/11/2024) 6P / 6C

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