



Crl.M.P.(MD) No.17932 of 2023

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

Thursday, the Twenty Ninth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.17932 of 2023

in

Crl.A(MD) No.1115 of 2023

BALAMURUGAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
IRUKKANKUDI POLICE STATION,
VIRUDHUNAGAR DISTRICT.
IN CRIME NO.360/2020.

... 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 SC No.75/2021 dt.22/8/2023 and enlarge the petitioner/sole accused on bail, till the dsposal of the Criminal Appeal.

PRAYER IN Crl.A(MD) No.1115 of 2023:

To admit this appeal on filr and call for the records from the Lowr Court and set aside the Judgment passed by the Learned Fast Track Mahila Court, Virudhunagar District at Srivilliputhur in S.C.No.75 of 2021 dated 22.08.2023 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 I.PINAYGASH, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Fast Track Mahila Judge, Virudhunagar District at Srivilliputhur in S.C.No.75 of 2021 dated 22.08.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. The case of the prosecution is that the victim and the accused are husband and wife. Both were living separately due to marital discord. On 06.10.2020 at about 16.15 hours, when the wife of the petitioner/accused was returning from the field, questioning the fidelity of his wife, the petitioner/accused restrained the victim/wife and assaulted her due to which she sustained injuries. Thereafter the injured was brought to the Government Hospital, Aruppukkottai, by the complainant. On information, the respondent police have registered FIR in Crime No.360 of 2020 for the offences punishable under Sections 294(b), 341 and 307 of IPC and the same was taken on file in S.C.No.75 of 2021 before the learned Fast Track Mahila Judge, Virudhunagar District at Srivilliputhur. The petitioner was convicted and sentenced to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- with 6 months Rigorous Imprisonment, in case of default for the offence under Section 307 of IPC. He was also sentenced to undergo one month Rigorous



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Imprisonment for the offence under Section 341 of IPC. Challenging the above said conviction and sentence, the petitioner has preferred the present appeal along with this criminal miscellaneous petition seeking suspension of sentence.

3. Learned counsel for the petitioner submitted that this is a matrimonial dispute between the petitioner and the victim/wife. According to the prosecution, P.W.1, who is the brother of P.W.2/victim, has made a written complaint but P.W.1 himself admitted that he has given an oral complaint before the respondent police, thereby a material contradiction exists qua mode of the complaint. Moreover, the alleged occurrence is said to have taken place in a secluded place and thereby, there is no reliable eyewitness on record to the alleged occurrence. Learned counsel further submitted that the petitioner is in custody from 28.08.2023 and if the petitioner is released on bail, he is ready to abide any conditions imposed by this Court and thereby, he prayed for bail.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner/accused often quarrelled with the victim/wife in a drunken mode and hence, they were parted ways before 3 years. The prosecution proved the case beyond all reasonable doubts by corroborating the



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evidences of P.W.1 to P.W.4, P.W.6 with the evidence of Doctor (P.W.10) regarding the gravity of the offence and the manner in which the offence was committed by the petitioner/accused and hence, he strongly opposed to grant suspension of sentence.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

6. Considering the arguable points involved in the appeal and the facts and circumstance of the case and taking into consideration the period of incarceration of the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Fast Track Mahila Judge, Virudhunagar District at Srivilliputhur, in S.C.No.75 of 2021 dated 22.08.2023 alone is suspended, subject to the following stringent conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/-

(Rupees Twenty Five Thousand only) with two blood sureties each for a



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like sum to the satisfaction of the learned Fast Track Mahila Judge,
Virudhunagar District at Srivilliputhur;

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

iii) The petitioner shall appear before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned Fast Track Mahila Judge, Virudhunagar District at Srivilliputhur.

8. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
29/02/2024

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05/03/2024
Sub-Assistant Registrar (PA-II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

pkn

TO
1. THE FAST TRACK MAHILA JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



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2 THE INSPECTOR OF POLICE
WIRUKKANKUDI 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.I.PINAYGASH, Advocate (SR-2579[I] dated 01/03/2024)

ORDER
IN
Crl.M.P.(MD) No.17932 of 2023
in
Crl.A(MD) No.1115 of 2023
Date :29/02/2024

RK (05/03/2024) 6P / 6C

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