



Crl.M.P.No.16150 of 2025
in Crl.A.No.1333 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 16.12.2025

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN
and
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

Crl.M.P.No.16150 of 2025
in
Crl.A.No.1333 of 2025

Asha @ Asharani,
Wife of Suresh

.. Appellant

Vs.

The State Rep. by
The Inspector of Police,
Kundrathur Police Station,
Chennai.

.. Respondent

This petition is filed under Section 389(1) Cr.P.C., praying to suspend the sentence imposed in S.C.No.16 of 2018 on the file of the Principal District and Sessions Judge, Kancheepuram, by its judgment dated 23.06.2025 and thereby enlarge the petitioner on bail, pending disposal of the appeal.

For petitioner : Mr.J.Suresh

For respondent: Mr.A.Damodaran, Addl.P.P. assisted by Mr.M.Arifa Thasneem



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ORDER

(The Order of the Court was made by P.Velmurugan, J)

This petition is filed for suspension of sentence imposed on the petitioner and to release her on bail.

2. Earlier, the respondent/Police had registered a case against the petitioner in Crime No.2691 of 2017 on the file of the respondent-Police. After completing investigation, charge-sheet was filed before the District Munsif-cum-Judicial Magistrate, Sriperumbudur. Thereafter, the case was committed and as the offences are exclusively triable by the Court of Sessions and taken on file in S.C.No.16 of 2018. The case was made over to the Mahila Court (trial Court), Kancheepuram. The trial Court framed charges against the accused for the offences under Sections 201 and 302 IPC. In order to prove the case, on the side of prosecution, P.Ws.1 to 13 were examined and Exs.P-1 to P-15 were marked and M.O.Nos.1 and 2 were produced. On the side of defence, no oral and documentary evidence is adduced. The trial Court, considering the materials and arguments advanced on either side, convicted the petitioner/accused for the offence under Section 302 IPC and sentenced her to undergo life imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo 6 months rigorous

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imprisonment. The trial Court also convicted the accused under Section 201 IPC read with Section 302 IPC and sentenced her to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo six months rigorous imprisonment. The above sentences imposed on the accused, were directed by the trial Court, to run concurrently. Challenging the said conviction and sentence, the petitioner/accused has filed the present Criminal Appeal and pending the Criminal Appeal, this petition is filed for suspension of sentence and release the petitioner/accused on bail.

3. Learned counsel for the petitioner submitted that the petitioner/accused is innocent and she is no way connected with the case and she is not involved in any offence, much less the offences under Sections 302 and 201 IPC. However, the trial Court failed to consider the oral and documentary evidence and also failed to appreciate the evidence of P.Ws.1 and 2 and erroneously convicted her.

4. Learned counsel for the petitioner further stated that though the de-facto complainant who is the mother of the deceased, had complained before the Police against her husband and the father of the deceased also, but however, the father of the deceased was not examined in this case as a witness. P.W.2 who is the paternal grand-father of the deceased, even in the chief examination, stated



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that he asked the petitioner to contact the father of the deceased and she had also contacted. The father of the deceased came and if at all the petitioner had committed the said offences, the paternal grand-father would not have asked the petitioner to contact him. Further, there are also material contradictions in the complaint and also even in the statement of the accused recorded under Section 164 Cr.P.C. and the evidence has not been properly considered/appreciated by the trial Court. Furthermore, there is no eye-witness in this case. Though the learned counsel for the accused could not cross-examine P.W.2 on the same day due to inconvenience to the counsel, but immediately, they have filed recall petition and the same was allowed. However, the witness was not produced for cross-examination. In the meanwhile, P.W.2 died and therefore, they could not cross-examine P.W.2. Thus, according to the learned counsel, there are material contradictions in the evidence and there is no eye-witness, even though there are allegations against even P.W.2 and the father of the deceased and Police had taken no steps in this regard. She never committed any offence and therefore, the accused has a fair chance to succeed in the main appeal and the learned counsel for the petitioner/accused prayed that the sentences imposed on the accused may be suspended and she may be released on bail, pending the present Criminal Appeal.



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5. Per contra, learned Additional Public Prosecutor appearing for the respondent/Police submitted that P.W.1 in this case is none other than the mother of the deceased who made a complaint before the respondent-Police to set the law in motion and based on the same, the respondent-Police registered a case against the accused. The statement of the victim has also been recorded by the Judicial Magistrate under Section 164 Cr.P.C. Immediately, the injured was admitted in the hospital and the Doctor who registered the particulars in the Accident Register, has made entries in the Accident Register which clearly shows the injuries sustained by the deceased. Further, the post-mortem report also clearly shows that though the reasons for the death, are due to asphyxiation due to drowning in the water, but the deceased had also suffered external injuries. The evidence of P.Ws.1, 2 and 5, coupled with the medical evidence, clearly shows that the appellant is the one who had caused injuries on the deceased. Therefore, there are prima-facie materials to show that the accused had committed the offences. However, the petitioner/accused has not clearly explained about the injuries sustained by the deceased. Admittedly, the deceased was under the custody of the petitioner. Hence, it is for the accused to explain as to how the child who was under her custody, sustained injuries. Thus, it is clear that the trial Court rightly convicted the petitioner/accused and the prosecution had proved its case beyond all reasonable doubts. There are no grounds made



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out for interference by this Court at this stage and there are no merits in this petition and hence, the learned Additional Public Prosecutor submitted that the petitioner/accused is not entitled for suspending the sentence.

6. Heard both sides and perused the materials available on record.

7. Admittedly, the case was registered against the petitioner/accused and further, investigation was done and the charge-sheet was laid as against her. The charges were framed against the accused under Sections 302 and 201 IPC. During the course of trial, totally, 13 witnesses were examined on the side of prosecution and 15 documents were marked. P.W.1 is the mother of the deceased and at the time of the occurrence, the deceased was with the petitioner and P.W.2 is the paternal grand-father of the deceased. Though in the chief examination, P.W.2 has clearly stated about the occurrence and although he was not cross-examined, P.W.5 has stated about the conduct of the accused prior to the date of occurrence. P.W.8 has also spoken about the occurrence.

8. Further, one of the neighbours of the prosecution witnesses, had stated about the conduct of the accused and however, the Doctor's evidence with medical records, clearly shows the cause of the death and also the injuries



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sustained by the deceased. One of the main grounds taken by the accused is that even though the child was drowned in the water, but there are no materials to prove the same. The child is four years old and the circumstances are not probably drawn into the conduct of the accused in committing the crime.

9. However, there are prima-facie materials to prove the case of the prosecution that it is only the accused who had committed the murder of the deceased.

10. This Court being the appellate Court, is a fact-finding Court and has to re-appreciate the evidence and decide on the merits of the case. From the materials available on record, this Court finds that there are prima-facie materials to link the accused with the crime and further, there are also incriminating circumstances against the petitioner/accused.

11. Therefore, for the reasons stated above, this Court is not inclined to suspend the sentence imposed by the trial Court on the accused. Accordingly, this petition is dismissed.



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12. The Registry had received the records and the typed set of papers are also made ready. Therefore, list the appeal for final hearing in the usual course.

(P.V., J) (M.J.R., J)
16.12.2025

CS

To

1. The Inspector of Police,
Kundrathur Police Station,
Chennai.
2. The Public Prosecutor, High Court, Madras.
3. The Principal District and Sessions Judge, Kancheepuram.



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