



WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :13.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI
CrI.MP(MD) No.10788 of 2023
in
CrI.A(MD) No.173 of 2023

S.Sudalaimani

... Petitioner

Vs.

State of Tamil Nadu,
Rep by the Inspector of Police,
Thenpagam Police Station,
Thoothukudi District.
Crime No.803 of 2016

... Respondent

For Petitioner : Mr.C.Selvaraj
For Respondent : Mr.A.S.Abdul Kalam Azad
Government Advocate (CrI Side)

ORDER

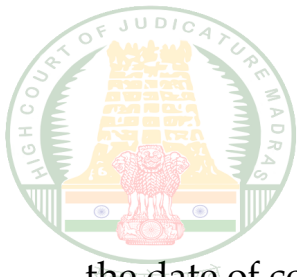
The petitioner, an accused in S.C.No.108 of 2017, on the file of the Additional District and Sessions Court, Thoothukudi was found guilty by the trial Court for the offence under Section 306 IPC and he was convicted and sentenced to undergo 10 years rigorous imprisonment with fine of Rs.1000/-, in default, he has to undergo 6



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months simple imprisonment. As against the conviction and sentence imposed by the trial Court in S.C.No.108 of 2017, dated 01.04.2022, the petitioner has filed a Criminal Appeal in CrI.A(MD) No.173 of 2023 and the same has been admitted by this Court on 28.07.2023. The petitioner has filed an application to suspend the sentence imposed on him by the trial Court in CrI.MP(MD) No. 3803 of 2023 in CrI.A(MD) No.173 of 2023 and the same was dismissed by this Court, by order, dated 27.03.2023 and therefore the petitioner has renewed this application to suspend the sentence.

2.The learned counsel appearing for the petitioner submits that the respondent police has mechanically registered the case as against this petitioner that the petitioner has poured kerosene on her wife and set fire. However, the deceased herself in her dying declaration submitted before the Judicial Magistrate No.I, Tuticorin, which was marked as Ex.P.2 stated that she herself has self immolated. The learned counsel has also relied on Exhibit P11, Accident Register of the petitioner, wherein, it was stated that he has also sustained burn injuries, while attempting to save his wife. The learned counsel by relying upon the evidence of PW 2 and PW 3, the parents of the deceased, PW 4 and PW 5, the blood relatives of the deceased submits that they have not supported the case of the prosecution, However, the trial Court has mechanically convicted this petitioner as if this petitioner is the cause of the suicide committed by the deceased. He also submits that this petitioner is in jail from



the date of conviction on 01.04.2022.

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3.The learned Government Advocate appearing for the respondent submits that the trial Court, after a full-fledged trial, considering the gravity of offence and taking into consideration of the evidence and materials placed before the trial Court, has convicted this petitioner and therefore this petition is liable to be dismissed.

4.This Court considered the rival submissions made and also perused the materials placed on record.

5.As per the dying declaration of the deceased recorded by the learned Magistrate, it appears that the deceased herself has self immolated. The petitioner has raised certain arguable points, which can be considered only during the final hearing of the appeal. However the appeal could not be taken up for final hearing for want of time. Considering the points raised by the petitioner, his period of incarceration and for the reasons that the appeal could not be taken up immediately, this Court is inclined to allow this petition.

6. Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the criminal appeal and the petitioner is ordered 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 II Additional District and Sessions Judge, Thoothukudi District and on further condition that the



petitioner shall report before the trial Court on the first working day of every English
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Calender month at 10.30 a.m., till the disposal of the appeal.

sd/-
13/03/2025

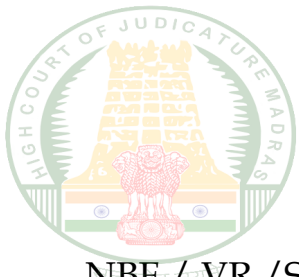
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Sub-Assistant Registrar (CS-I/II/III/IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vrn
TO

- 1 THE II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
THOOTHUKUDI DISTRICT.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 3 THE INSPECTOR OF POLICE
THENPAGAM POLICE STATION, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.10788 of 2023
Date :13/03/2025



NBF / VR / SAR- (17/03/2025) 5P/5C

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