



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.04.2016

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.R.C. (MD) No.286 of 2016 and
Crl.M.P. (MD) Nos.3870 and 3871 of 2016

Radha @ Radharavi

... Revision Petitioner/Accused

vs.

State ; Rep by
The Sub Inspector of Police,
Alanganallur Police Station,
in Crime No.167 of 2008

... Respondent / Complainant

PRAYER: This petition is filed under Section 397(1) r/w 401 of Cr.P.C., to call for the records and to set aside the order of conviction and sentence passed by the learned VI Additional District Sessions Judge, Madurai in C.A.No.5 of 2015 dated 15.12.2015 in C.C.No.731 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti, dated 19.01.2015 and to allow this revision and to acquit the revision petitioner from the charge leveled against him.

For Petitioner : Mr.G.Karuppasamy Pandian

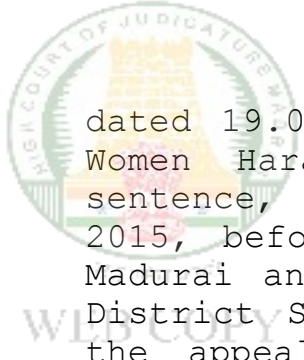
For Respondent : Mr.P. Kandasamy,
Government Advocate (Crl.Side)

ORDER

This Revision petition has been filed by the revision petitioner / accused to set aside the order of conviction and sentence passed by the learned VI Additional District Sessions Judge, Madurai in C.A.No.5 of 2015 dated 15.12.2015 in C.C.No.731 of 2008 on the file of the learned District Munsif cum Judicial Magistrate, Vadipatti, dated 19.01.2015 and to allow the revision.

2. Heard Mr.G.Karuppasamy Pandian, learned counsel for the petitioner and Mr.P.Kandasamy, learned Govt. Advocate(Crl.Side) for the respondent.

3. It is seen that the revision petitioner/accused was sentenced by the learned District Munsif cum Judicial Magistrate, Vadipatti, in C.C.No.731 of 2008, by order



dated 19.01.2015, for the offence under Section 4 of Tamil Nadu Women Harassment Act. Challenging the said conviction and sentence, the revision petitioner filed an appeal in C.A.No.5 of 2015, before the learned Principal District and Sessions Judge, Madurai and the case was made over to the learned VI Additional District Sessions Judge, Madurai, who appears to have dismissed the appeal for default on 15.12.2015. Challenging which, the revision petitioner/accused is before this Court.

4. In this revision, the short point that falls for consideration is, as to whether the Appellate Court can dismiss the appeal for default. The Law is no more **res integra** in view of the judgment by the Honourable Supreme Court in **Surya Baksh Singh V. State of Uttarpradesh reported in (2015) 1 SCC Cr1. 313.**

5. Mr.P.Kandasamy, learned Government Advocate(Crl. Side) takes notice to the respondent.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate(Crl.Side).

7. Since, the appeal has not been heard on merits, liberty should be given to the accused, to present the case before the Appellate Court. Hence, the order passed by the learned VI Additional District Sessions Judge, Madurai, in C.A.No.5 of 2015 is set aside and this Criminal Revision Petition is allowed. The matter is remanded back to the learned VI Additional District Sessions Judge, Madurai, for fresh hearing of C.A.No.5 of 2015. The revision petitioner/accused is directed to appear before the learned VI Additional District Sessions Judge, Madurai in C.A.No.5 of 2015 on 13.06.2016 at 10.30 a.m., and give a bond under Section 88 of Cr.P.C., for a sum of Rs.10,000/- (Rupees Ten thousand only) with one surety for a likesum undertaking to diligently prosecute the appeal. The bond should also contain the petitioner's present address. The learned VI Additional District Sessions Judge, Madurai is directed to dispose of the appeal in C.A.No.5 of 2015, within one month from 13.06.2016. If the revision petitioner does not co-operate by engaging an Advocate, it is open to the Appellate Court to cancel his bail and remand him to to custody as per Section 309 Cr.P.C. and also as per the the decision laid down by the Honourable Supreme Court in **State of U.P. Vs. Sambhunath Singh** reported in **2001(4) SCC 667.** Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/True Copy/



To

1. The VI Additional District Sessions Judge,
Madurai.
2. The District Munsif cum Judicial Magistrate,
Vadipatti.
3. The Sub Inspector of Police,
Alanganallur Police Station,
Madurai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

PMU/SSL

TE/JGB-SS/ : 13/05/2016 : 3P/5C

CrI.R.C.(MD) No.286 of 2016 and
CrI.M.P.(MD) Nos.3870 and 3871 of 2016
29.04.2016