

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourteenth day of March Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL MISCELLANEOUS PETITION No.3879 & 3969 of 2017

IN CRL RC.412/2017

BALU @ BALAMURUGAN, [PETITIONER]

Vs

THE STATE OF TAMIL NADU, [RESPONDENT]
REP. BY INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SALEM TOWN

Petition praying that in the circumstances stated therein the High Court will be pleased to

(i) grant an order of exemption from surrendering the petitioner pursuant to the order dated 14.02.2017 passed by learned I Additional District and Sessions Judge, Salem in C.A.No.77/2007 and confirming the C.C.No.1559/2004 dated 26.04.2007 by the Judicial Magistrate.III, Salem in IN CRL RC.412/2017 [CRL.MP.No.3879 of 2017]

(ii) suspend the execution of sentence passed in C.A.No.77 of 2007 dated 14.02.2007 on the file of the Ist Additional Sessions Judge, Salem, Confirming the Judgment and sentence in C.C.NO.1559 of 2004, dated 26.04.2007 on the file of Judicial Magistrate, No.III, Salem pending disposal of the above IN CRL RC.412/2017[CRL MP.3969/2017]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.V.V.SAIRAM, Advocate for the petitioner and of MR.R. RAVICHANDRAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The Petitioner stood charge for the offence under sections 406,498-A IPC and Section 4 of Dowry Prohibition Act. The Trial Court under judgment dated 26.04.2007 passed in C.C.No.1559 of 2004, convicted the petitioner for an offence under Section 498-A IPC and sentence him to undergo one year rigorous imprisonment and also imposed a fine of Rs.1000/- in default to undergo three months rigorous imprisonment and convicted under section 406 IPC and sentenced to undergo one year rigorous imprisonment and also a fine of Rs.1000/- in default to undergo three months rigorous imprisonment and convicted him under Section 4 of Dowry Prohibition Act and sentenced him to undergo one year rigorous

imprisonment and pay a fine of Rs.1000/- in default to undergo three months rigorous imprisonment and the directed the petitioner to undergo all these sentences separately. Challenging the same, the petitioner filed an appeal in C.A.No.77 of 2007 on the file of the I Additional District and Sessions Judge, Salem. The appellate court confirmed the conviction and sentence, however, directed the petitioner to serve the sentence concurrently. Now, challenging the above said conviction and sentence, the present revision has been filed.

2.Heard Mr.V.V.Sairam, learned counsel for the petitioner and Mr.R.Ravichandran, learned Government Advocate(Crl. side) appearing for the respondent.

3. Learned counsel for the petitioner submitted that the court below did not considered the evidence of P.W.2, the father of defacto complainant-PW1 that the defacto complainant used to come to her parental house regularly, and after marriage, the defacto complainant and the petitioner were living happily and the defacto complainant did not allege any complaint against the petitioner regarding harassment. Apart from that, the learned counsel for the petitioner submitted that there is considerable delay in preferring the complaint and the delay was not properly explained by the prosecution.

4. I have considered the submissions made and perused the materials available on record and I find some arguable points in the revision. In the above circumstances, I am inclined to suspend the substantive sentence alone. Accordingly, pending appeal, sentence of imprisonment alone is suspended and the petitioner is released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate-III, Salem, with further condition that he shall appear before the said court on the first working day of every month at 10.30 a.m., until further orders. The surrender of the petitioner before the trial Court is exempted.

-sd/-

14/03/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE I ADDITIONAL DISTRICT AND
SESSIONS JUDGE, SALEM.

2 THE JUDICIAL MAGISTRATE-III
SALEM.

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM DISTRICT. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 REP. BY INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SALEM TOWN

+1C.C. to M/S.V.V.SAIRAM Advocate on payment of necessary
charges SR.NO. 4834

Order

in
CRL MP.3879 & 3969 /2017

in
CRL RC.412/2017

Date :14/03/2017

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EGR 16/03/2017