

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Sixth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.8670 of 2017

IN CRL A.403/2017

CHINNADURAI

[PETITIONER]

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
ARUMBAVOOR POLICE STATION,
PERAMBALUR DISTRICT.
CR.NO.67/2016.

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased To suspend the sentence of imprisonment passed in S.C.No.1 of 2017 on the file of Sessions Judge, Mahila Court, Perambalur and enlarge him on bail pending disposal of C.A.No. of 2017 filed before this Honble Court.

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

Heard both sides.

2. The petitioner/appellant herein is the second accused in S.C.No.1 of 2017 on the file of the learned Sessions Judge, Mahila Court, Perambalur. He was convicted of the offence under Section 294[b] IPC and sentenced to undergo three months Simple Imprisonment and also to pay a fine of Rs.1,000/-, in default, to undergo one month Simple Imprisonment and to undergo two years Simple Imprisonment and also to pay a sum of Rs.10,000/-, in default, to undergo six months Simple Imprisonment of the offence under Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act, 1998 and to undergo seven years Rigorous Imprisonment and also to pay a fine of Rs.5,000/-, in default, to undergo one year Rigorous Imprisonment of the offence under Section 307 IPC. Aggrieved by the judgment of the Trial Court, he has preferred the above appeal. Pending appeal, the present petition has been filed to suspend the sentence.

3. The learned counsel appearing for the petitioner would submit that the prosecution has examined 10 witnesses and marked 15 exhibits and placed 3 Material Objects in support of its case. However, the prosecution has failed to prove the charge under Section 307 IPC, as the injured witness, namely, Dhanalakshmi sustained only simple injury. Therefore, it is a fit case for ordering suspension of sentence.

4. The learned Government Advocate [Criminal Side] appearing for the respondent opposed the petition stating that the case is supported by the evidence of the injured witness and the Trial Court has rightly convicted the accused and that, the petitioner is not entitled to be released on bail at this stage.

5. I have perused the grounds of appeal and the judgment of the Trial Court. The medical evidence given by Doctor [P.W.6] shows that the injured sustained only simple injury. It is seen that the accused has raised arguable points in the appeal. He has been in custody since 08.06.2017 and there is no fear that he will flee from justice. The petitioner was sentenced to a fixed period of seven years imprisonment. Taking all these factors into consideration, I am inclined to suspend the sentence of imprisonment alone till the disposal of the appeal and grant bail subject to stringent condition.

6. Hence, the sentence of imprisonment imposed on the petitioner by the Trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on executing a bond for Rs.10,000/- [Rupees Ten Thousand only] with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate, Perambalur, within a period of two weeks from the date of this order and on further condition that the petitioner shall report before the Trial Court on the first working day of the English Calender month at 10.30 a.m. until further orders.

-sd/-
26/07/2017

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 JUDICIAL MAGISTRATE,
PERAMBALUR.

2 THE CHIEF JUDICIAL MAGISTRATE
PERAMBALUR DISTRICT. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ARUMBAVOOR POLICE STATION, PERAMBALUR DISTRICT.

5 THE SESSIONS JUDGE,
MAHILA COURT, PERAMBALUR.

6 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1C.C. to M/S.K.V.SRIDHARAN Advocate on payment of necessary
charges SR.NO. 14102

Order

in
CRL MP.8670/2017

in
CRL A.403/2017

Date :26/07/2017

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EGR 28/07/2017