

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Third day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice P. KALAIYARASAN

CRIMINAL MISCELLANEOUS PETITION No.5338 of 2018

IN CRL RC.444/2018

V.RAJENDRAN

[PETITIONER]

Vs

STATE OF TAMILNADU

[RESPONDENT]

REP. BY INSPECTOR OF POLICE,
W-19 ALL WOMANS POLICE STATION,
ADYAR, CHENNAI

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.444/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the learned IV Additional Sessions Judge Chennai in CA No.304 of 2016 dated 02.03.2016 confirming the order of conviction passed by the learned IX Metropolitan Magistrate, Saidapet in CC 3900 of 2013 dated 03.12.2016 and enlarge the petitioner on bail pending disposal of the above revision petition no.444/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.Revision Case No.444/2018 on the file of the High Court and upon hearing the arguments of MR.M.DEVARAJ Advocate for the petitioner and of MR.G.RAMAR, GOVERNMENT ADVOCATE, [CRL.SIDE] on behalf of the Respondent the court made the following order:-

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

2.This petition has been filed seeking an order to suspend the sentence passed by the learned IV Additional Sessions Judge, Chennai, in C.A.No.304 of 2016, dated 02.03.2018, confirming the order of conviction passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, in C.C.No.3900 of 2013, dated 03.12.2016.

3.The petitioner/accused has been convicted for the offence under Section 417 of IPC and sentenced to undergo RI for 1 year and to pay a fine of Rs.3,000/- with default clause by the trial Court. The first appellate Court, in C.A.No.304 of 2016, confirmed the conviction and sentence passed by the trial Court. Against that, the present revision has been filed.

4.Learned counsel for the petitioner contends that even as per the admission of P.W.1, she had marital relationship with the petitioner/accused for about 8 years that she already got married to one Arumugam in the year 2003 and therefore the charge under Section 417 of IPC has not been established. In the trial Court as well as in the first appellate Court, without appreciating the evidence properly, convicted the accused and the petitioner/accused had been on bail during trial and therefore, the sentence imposed by the first appellate Court may be suspended.

5.This Court perused the judgment of the first appellate Court as well as the trial Court. The first appellate Court, in its judgment pointed out that the marriage between P.W.1 and one Arumugam subsisted till 2011 and P.W.1 had marital relationship with the petitioner/accused for the past 8 years.

6.Considering the entire facts and circumstances of the case and also the fact that the petitioner/appellant had been on bail during trial till date, this Court is of the view that the sentence imposed by the first appellate Court is to be suspended. Accordingly, the substantive sentence of imprisonment alone is suspended 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 IX Metropolitan Magistrate, Saidapet and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m till the disposal of the revision.

-sd/-
03/04/2018

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 IV ADDITIONAL SESSIONS
JUDGE, CHENNAI.

2 THE IX METROPOLITAN MAGISTRATE
SAIDAPET, CHENNAI.

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI.
[FOR INFORMATION]

4 THE ALL WOMANS POLICE STATION,
ADYAR, CHENNAI.

5. THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

+1C.C. to M/S.N.IYYAKANNU Advocate on payment of necessary
charges in SR.NO. 6409

Order

in
CRL MP.5338/2018

in
CRL RC.444/2018

Date :03/04/2018

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MLT-05/04/2018