

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Third day of November Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.15296 of 2018

IN CRL A.723/2018

SARAVANAN @ SARAVANAKUMAR

[PETITIONER]

vs

DEPUTY SUPERINTENDENT OF POLICE, [RESPONDENT]
UDHAGAI NAGAR SUB DIVISION,
ALL WOMEN POLICE STATION,
UTHAGAMANDALAM,
THE NILGIRIS.
CR. NO. 06 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.723/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner herein by the learned District Sessions Judge, Uthagamandalam, The Nilgiris made in S.C.No. 42 of 2016 dated 22.10.2018 and acquit the Appellant herein from the said charge and thus render justice.[CRL.MP.NO.15296/2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.723/2018 on the file of the High Court and upon hearing the arguments of M/S.T.SHANMUGAM Advocate for the petitioner and of MRS.V.SARATHADEVI Government Advocate on behalf of the Respondent the court made the following order:-

The petitioner/appellant is the sole accused in Sessions Case No.42 of 2016, on the file of the District Sessions Judge (Udhagamandalam, the Nilgiris). By judgment dated 22.10.2018, the trial Court has convicted the appellant for offence under Section 417 of the Indian Penal Code. He was sentenced to undergo Rigorous Imprisonment for one year and also imposed with a fine of Rs.50,000/-. Challenging the said conviction and sentence, the petitioner/accused has preferred the above appeal. Pending appeal, he seeks for suspension of sentence.

2.Heard, Mr.T.Shanmugam, the learned counsel for the petitioner/appellant and Mrs.V.Sarathadevi, the learned Government Advocate, appearing for the State and also perused the records carefully.

3.The learned Government Advocate appearing for the State would point out that not only the evidences of P.W.1 and P.W.15 and also other documents exhibited on the side of the prosecution, would clearly prove the guilt of the petitioner/accused and therefore, this petition is liable to be dismissed.

4. I have gone through the records. In this case, the prosecution mainly relies on the eyewitness account of P.W.1 (the victim) and the evidence of P.W.15 (the wife of the accused). It is seen that on the basis of the evidence given by P.W.1 that though the accused already got married, suppressing the said fact he had sexual affairs with her, under the guise of marrying her and the alleged fact of the marriage of the accused has been supported by the evidence of P.W.15, who is none other than the wife of the accused, the learned counsel for the petitioner/appellant would submit that the evidence of P.W.1 cannot be believed, as she is an interested witness. I find that the trial Court has convicted the accused based on the evidence of P.W.1, who is the victim in this case. In view of such objection raised by the learned counsel for the appellant, this Court is of the view that the evidences, relied upon by the Prosecution, need deep scrutiny and several facts have to be culled out, in order to rope the accused in the crime. At any rate, in my considered view, for the purpose of this petition, these materials cannot be sufficient to deny suspension of sentence. In such view of the matter, I am inclined to suspend the substantive sentence of imprisonment of the petitioner/accused.

5. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute 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 learned Judicial Magistrate, Cunnor, The Nilgiris, and on further condition that the petitioner shall report before the Committal Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

सत्यमेव जयते
-sd/-
23/11/2018

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

WEB COPY
TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE,
CUNNOOR, THE NILGIRIS

2 THE CHIEF JUDICIAL MAGISTRATE
THE NILGIRI DISTRICT[FOR INFORMATION]

3 THE SUPERINTENDENT
CENTRAL PRISON, COIMBATORE

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE DEPUTY SUPERINTENDENT OF POLICE,
UDHAGAI NAGAR SUB DIVISION,
ALL WOMEN POLICE STATION,
UTHAGAMANDALAM, THE NILGIRIS.

6 THE DISTRICT SESSIONS JUDGE
[UDHAGAMANDALAM THE NILGIRIS]

+1 C.C. to M/S.T.SHANMUGAM Advocate on payment of necessary
charges SR.NO. 22512

Order

in
CRL MP.15296/2018

in
CRL A.723/2018

Date :23/11/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
RD 27/11/2018