



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Ninth day of February Two Thousand Eighteen

PRESENT

WEB COPY

The Hon`ble Mr Justice P.N.PRAKASH

CRL MP(MD) Nos.921 & 922 of 2018
IN CRL RC(MD) No.78 of 2018

PERUMAL,

... PETITIONER/PETITIONER

Vs

1 SUBATHRA,

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THOOTHUKUDI.
CRIME NO.9 OF 2008.

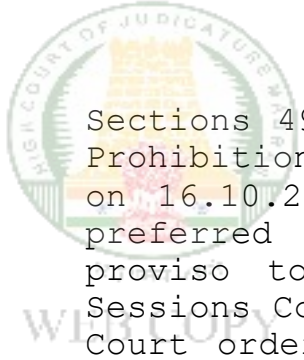
... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to order suspension of sentence and grant bail to the petitioner in C.A.No.12 of 2016 on the file of the learned I Additional Sessions Judge, Thoothukudi in Judgement dated 25.01.2018 pending disposal of this Criminal Revision Petition and thus render justice.

Prayer in CRL MP(MD). 922/ 2018 :

To exempt the petitioner from surrendering in pursuance of Judgment dated 25.01.2018 in C.A.No.12 of 2016 on the file of the learned I Additional Sessions Judge, Thoothukudi and thus render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.ANTONY.S.PRABAHAR, Advocate for the petitioner and of MR.S.BHARATHI, Government Advocate (Crl.side) for R2 and while admitting the CRL RC, the court made the following order:-



Sections 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act and the petitioner was acquitted by the Trial Court on 16.10.2015. Challenging the acquittal, the *defacto* complainant preferred C.A.No.12 of 2016 before the Sessions Court under the proviso to Section 372 of the Code of Criminal Procedure. The Sessions Court, by judgment dated 25.01.2018, has reversed the Trial Court order of acquittal and has convicted the petitioner for the offences under Sections 498-A of the Indian Penal Code and Section 4 of the Dowry Prohibition Act and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment for the offence under Section 498-A IPC and to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment for the offence under Section 4 of the Dowry Prohibition Act. Challenging the conviction and sentence, the petitioner has filed the present Criminal Revision Case.

2. Under normal circumstances, this Court will not dispense with the surrender of the accused for the purpose of granting suspension of sentence and bail. However, in this case, the petitioner was acquitted by the Trial Court and that acquittal has been reversed by the Sessions Court. That apart, the alleged offences are matrimonial offences. In such view of the matter, this Court is of the view that this is a fit case to exempt the petitioner from surrendering and Crl.M.P.(MD)No.922 of 2018 is allowed accordingly.

3. Insofar as Crl.M.P.(MD)No.921 of 2018 is concerned, the learned counsel for the petitioner submitted that the petitioner has paid the fine amount.

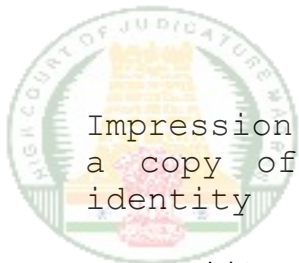
4. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court.

5. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner that there are several infirmities in the prosecution case in respect of the petitioner and that there are arguable points involved in the revision and further, the revision is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Thoothukudi and on further condition that:

<https://hcservices.ecourts.gov.in/hcservices/>

(i) the sureties shall affix their photographs and Left Thumb



Impression in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity

(ii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the revision and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C., and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

sd/-
09/02/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE I ADDITIONAL SESSIONS JUDGE, THOOTHUKUDI
- 2 THE JUDICIAL MAGISTRATE NO.I, TUTICORIN
- 3 THE CHIEF JUDICIAL MAGISTRATE
THOOTHUKUDI DISTRICT
- 4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THOOTHUKUDI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

+1. C.C. to M/S.ANTONY.S.PRABAHAR Advocate SR.No.2205

ORDER
IN
CRL MP (MD) Nos.921
& 922 of 2018
IN
CRL RC (MD) No.78 of 2018
Date :09/02/2018

SMA/PM-PN/SAR-4/13.02.2018:3P/7c