

HONOURABLE SRI JUSTICE N. BALAYOGI

CRIMINAL REVISION CASE No. 2773 OF 2018

ORDER:

1. Heard learned Counsel for the petitioner/accused and learned Public Prosecutor appearing for the respondent-State. With their consent, the main Criminal Revision Case itself is heard finally and being disposed of by this order.

2. The contention of the petitioner is that both the alleged victim/PW.1 and himself were divorced and were in a relationship and hence there is no question cheating. It is his further case that he has paid the fine amount imposed by the trial Court and that he was on bail during the course of trial and now he is in jail subsequent to conviction.

3. Learned Public Prosecutor submits that the conviction and sentence imposed by the trial Court is based on material on record; that the lower appellate Court rightly dismissed the application for suspension of the sentence and that there are no legal infirmities warranting interference.

4. A perusal of the record reveals that the petitioner is accused in CC No.215 of 2015. The trial Court-learned II Additional Chief Metropolitan Magistrate, Hyderabad, by judgment dated 12.09.2018 convicted the petitioner and sentenced him to suffer rigorous imprisonment for a period of seven years and to

pay fine of Rs.5,000/-, in default of payment of fine, shall undergo simple imprisonment for three months for the offence under Section 417/420 IPC. Further the trial Court directed the petitioner to pay Rs.25,000/- towards compensation under Section 357(b) Cr.P.C. to P.W.1/victim as she has small baby and to look after her welfare. Aggrieved by the said conviction and sentence, he preferred Criminal Appeal No.899 of 2018 before the learned Metropolitan Sessions Judge, Hyderabad. Pending hearing of the said appeal, the petitioner filed CrI.M.P.No.3116 of 2018 therein seeking to suspend the sentence imposed by the trial Court. The lower appellate court by order dated 18.09.2018 dismissed the same. Hence the present Criminal Revision Case.

5. It is clear from the record that both the petitioner and victim/P.W.1 were divorced, that the petitioner developed intimacy with P.W.1/victim and induced her for cohabitation and in view of the same, P.W.1/victim became pregnant and gave birth to a female child. There is no dispute that the petitioner is the biological father of the said female child. Further it is clear that the petitioner was on bail during the trial and after conviction, he is committed to jail. He also paid the fine amount imposed and the compensation amount awarded by the Trial Court. The learned counsel for the petitioner submits that there is likelihood of settlement between the parties and if the petitioner is in jail, it may not materialize. Thus having heard the learned Counsel on either side, gone through the material on record and considering

that there is likelihood of settlement between the parties, I am inclined to suspend the sentence imposed by the trial Court.

6. Accordingly, the order dated 18.09.2018 passed in CrI.M.P.No.3116 of 2018 in CrI.A.No.899 of 2018 on the file of learned Metropolitan Sessions Judge, Hyderabad is set aside and the execution of sentence imposed by the learned II Additional Chief Metropolitan Magistrate, Hyderabad in CC.No.215 of 2015 dated 12.09.2018 is suspended pending adjudication of CrI.A.No.899 of 2018 by the lower appellate Court. The petitioner/Accused shall be enlarged on bail on his executing a personal bond for Rs.15,000/- with two sureties each for the like sum to the satisfaction of II Additional Chief Metropolitan Magistrate, at Hyderabad.

7. Accordingly, the Criminal Revision Case is allowed.

8. Miscellaneous petitions pending consideration if any in the Criminal Revision Case shall stand closed in consequence.

JUSTICE N. BALAYOGI

DATED 12th October, 2018.
Note: CC by Monday
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