

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fifth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION No.6360 of 2019

IN CRL.A.NO.153 OF 2019

DASARATHAN

[PETITIONER]

Vs

THE INSPECTOR OF POLICE
VIRINCHIPURAM POLICE STATION,
VELLORE DISTRICT.
CR.NO.81 OF 2013

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.153/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Vellore in SC No.198 of 2013 dated 03.02.2018 against the petitioner, enlarge the petitioner on bail pending disposal of the Crl.A.No.153/2018.[CRL.MP.NO.153 OF 2018]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.153/2018 on the file of the High Court and upon hearing the arguments of M/S.RAJAMOHAN V. Advocate for the petitioner and of MR.M.MOHAMED RIYAZ,ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/accused seeking suspension of sentence of imprisonment, imposed by the judgment, dated, 03.02.2018, made in S.C.No.198/2013, by the learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Vellore, pending disposal of the Criminal Appeal.
2. This court heard the learned counsel on either side and also perused the materials placed on record.
3. The appellant/accused is the husband of the defacto complainant and due to family dispute, both of them were living separately for the past four years. On 31.01.2012 at about 06.00 p.m., on seeing the victim talking with one auto driver, Parasuraman, he abused her in a filthy language about her fidelity. On 31.01.2013 at about 08.00 p.m with an intention to commit the murder of the victim, petitioner/accused had thrown a plastic bottle containing kerosene on her by saying filthy words and thrown a lighted match stick on

her due to which, she sustained grievous burn injuries. For such acts, the appellant/ accused was charge sheeted for the offence under Sections 498(A), 448, 307 of IPC read with of Tamil Nadu Harassment of Women Act.

4. In and by the impugned judgement, the Petitioner was convicted and sentenced for the offences under Sections 307 , 448, 307, of IPC read with of Tamil Nadu Harassment of Women Act, as under:

S.No.	Conviction	Sentence
1.	U/s.307 of IPC	7 years R.I and fine of Rs.5,000/-.
2.	U/s.448 of IPC	1 year R.I
3.	Sec.498 (A) IPC and Sec. 4 of TNPWH Act	Acquitted

The sentences were ordered to run concurrently. Aggrieved against the same, the petitioner/accused has preferred this appeal.

5. According to the learned counsel for the Petitioner this Court, while dismissing the earlier application seeking suspension of sentence had permitted the petitioner/accused to move the suspension of sentence of imprisonment at a later point of time and that the petitioner is in custody from the date of judgment on 03.02.2018. He would further submit that though the Victim P.W.1 had stated that her children were present nearby when the Kerosene was spilt on her and it has also fallen on the children, the prosecution has failed to examine them as witnesses in this case. Further, P.W.2 mother of the victim though initially had deposed that she had witnessed the occurrence had during the cross examination stated that she has not directly witnessed the occurrence. He would further submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioner has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence of imprisonment imposed against the Petitioner may be suspended.

6. The learned Additional Public Prosecutor has filed the counter, and he would submit that 10 witness were examined and the prosecution has proved the case beyond all reasonable doubts and the Trial Court had rightly convicted the petitioner/accused and he would raise the objections for suspending the sentence.

7. On the last occasion, this Court had directed the Registry to call for the records and to prepare the type set of papers. The records have not been received and the typeset is also not made ready. The petitioner/accused is in custody from 03.02.2018. This Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner is ordered to be enlarged on bail, on the following conditions:-

<https://hcservices.hcprts.gov.in/hcservices/> 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 No.IV, Vellore.

ii. The Petitioner/accused shall report before the Trial court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

25/09/2019

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 SESSIONS JUDGE
MAGALIR NEETHIMANDRAM[FAST TRACK MAHILA COURT]
VELLORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE JUDICIAL MAGISTRATE,
NO.IV, VELLORE

4 THE CHIEF JUDICIAL MAGISTRATE
VELLORE[FOR INFORMATION]

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE INSPECTOR OF POLICE
VIRINCHIPURAM POLICE STATION, सत्यमेव जयते
VELLORE DISTRICT.

+1 C.C. to M/S.RAJAMOHAN V. Advocate on payment of necessary charges SR.NO. 20026

Order

in
CRL MP.6360/2019

IN CRL.A.NO.153 OF 2019

Date :25/09/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
<https://hcservices.ecourts.gov.in/hcservices/>
RD 30/09/2019