

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Ninth day of May Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice N. ANAND VENKATESH

CRIMINAL MISCELLANEOUS PETITION No.6505 of 2019

IN CRL RC.422/2019

GANESAN @ GANESH

[PETITIONER / APPELLANT]

Vs

STATE REP.BY

[RESPONDENT]

THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SOORAMANGALAM,
SALEM DISTRICT.
CR.NO.19/2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL RC.422/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence impose on the petitioner in C.C.No.265/2017 on the file of the learned Judicial Magistrate 2, Salem District dated 03.04.2018 by convicting the petitioner for the offence under Section 498 - A of IPC sentence to undergo simple imprisonment for one year and impose fine of RS.1000/- in default to undergo 3 months simple imprisonment and the same was confirmed by the III Additional Sessions court, Salem District in C.A.No.70/2018 by order dated 20/02/2019 pending disposal of the above CRL.RC.NO.422 of 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL RC.422/2019 on the file of the High Court and upon hearing the arguments of M/S.S.SAIRAMAN, Advocate for the petitioner and of M/S.M.PRABHAVATHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The Criminal Revision has been filed as against the Judgment passed by the learned III Additional Sessions Judge, Salem District in Crl.A.No.70 of 2018 dated 20.02.2019, confirming the judgment of the learned Judicial Magistrate No.II, Salem in C.C.No.265 of 2017 dated 03.04.2018, for an offence under Section 498 A of IPC for one year simple imprisonment and sentenced to pay a fine of Rs.1000/- in default to undergo 3 months simple imprisonment. Pending appeal, the petitioner has filed the above miscellaneous petition seeking suspension of substantive sentence of imprisonment.

2. The learned counsel for the petitioner submitted that there is no material in order to substantiate the offence under Section 498 A against the petitioner and the Court below having acquitted the petitioner of all the other offences, ought to have acquitted the petitioner for an offence under Section 498 A also. The learned counsel further submitted that PW 1 and PW 2 are interested witnesses and the conviction has been made purely based on their evidence. The learned counsel further submitted that the fine amount has already been deposited at the time of filing the appeal.

3. The learned Additional Public Prosecutor submitted that the Court below has appreciated the entire evidence and has given elaborate reasons for convicting and sentencing the petitioner.

4. This Court carefully considered the submissions made on either side.

5. Considering the facts and circumstances of the case and in view of the fact that there are arguable points which requires a consideration in the revision and the revision cannot be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed by the Court below.

6. The sentence imposed by the Court below vide Judgment made in C.C No.265 of 2017 dated 03.04.2018 on the file of learned Judicial Magistrate No.II, Salem is hereby suspended, 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 No.II, Salem and to appear before the learned Judicial Magistrate No.II, Salem on the first working day of every week at 10.30 a.m., until further orders.

-sd/-
09/05/2019

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 III ADDITIONAL SESSIONS COURT,
SALEM DISTRICT.

2 THE JUDICIAL MAGISTRATE,
NO.2, SALEM

3 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SOORAMANGALAM, SALEM DISTRICT.

+1C.C. to M/S.S.SAIRAMAN Advocate on payment of necessary
charges SR NO.9708

Order

in
CRL MP.6505/2019

in
CRL RC.422/2019

Date :09/05/2019

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MK:13/05/2019