

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION NO.14368 OF 2019

IN CRL.A.NO.677 OF 2019

SURESH

[PETITIONER / APPELLANT]

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
HOSUR, KRISHNAGIRI DISTRICT.
CRIME NO.1 OF 2018

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence passed against the appellant by the judgment dated 20.08.2019 made in Spl.S.C.No.23 of 2018 on the file of Sessions Judge (Fast Track Mahila Court), Krishnagiri pending disposal of the above CRL.A.NO.677 OF 2019 [IN CRL.MP.NO.14368 OF 2019]

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.D.SELVARAJU, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ, ADDITIONAL 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 judgement, dated, 20.08.2019, made in Spl.S.C.No.23/2018, by the Sessions Judge, (Fast Track Mahila Court), Krishnagiri, 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.In and by the impugned judgement, the Petitioner/ accused was convicted for the offence under Section 366 of IPC and sentenced to undergo 5 years Rigorous Imprisonment, in default to pay a fine of Rs.1,000/- in default sentence of 6 months Rigorous Imprisonment and also convicted for the offences under Section 5 (L) r/w 6 of POCSO Act, he was sentenced to undergo 10 years Rigorous Imprisonment with a fine of Rs.5,000/- and in default one year Rigorous Imprisonment.

4. According to the learned counsel for the Petitioner/accused, the Trial court has failed to take into consideration that the witness have not supported the case of the prosecution. It is the categorical admission of the witness that they have given a false complaint since there was a financial dispute between them and the petitioner. The prosecution had not treated them hostile. Despite that the Trial Court had convicted them. He would 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/ accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended.

5. The learned Additional Public Prosecutor has raised objections for suspending the sentence and has filed counter before this Court.

6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, 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/ accused is ordered to be enlarged on bail, on the following conditions:-

a) The Petitioner/Accused 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 Sessions Judge, (Fast Track Mahila Court), Krishnagiri.

b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

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c) The Petitioner/Accused shall appear before the respondent Police at 10.30 a.m. On every monday, until the disposal of the Criminal Appeal 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 of Cr.PC. 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/-
27/11/2019

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
[FAST TRACK MAHILA COURT], KRISHNAGIRI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
HOSUR, KRISHNAGIRI DISTRICT.

+1C.C. to M/S.D.SELVARAJU Advocate on payment of necessary charges SR NO.24470

Order

in
CRL MP.14368/2019
in
CRL.A.677/2019

Date :27/11/2019

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MK:04/12/2019