

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.RC.No.1247 of 2019

M.Nedunjelian

... Petitioner/Appellant

Vs.

State: rep., by
The Inspector of Police,
Veerapandi Police Station,
Tirupur.
(Crime No.186/2017)

... Respondent/Complainant

PRAYER: This Criminal Revision Petition has been filed, under Sections 397 and 401 of Cr.P.C., to call for the records and set aside the order in Crl.M.P.No.1269/2019 in Crl.A.No.102/2019, dated 19.10.2019, by the Principal Sessions Judge, Tiruppur.

For Petitioner : Mr.K.Kannan

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

- 1.This Criminal Revision Petition has been filed by the petitioner/appellant, against the order, dated 19.10.2019, Crl.MP.No.1269/2019 in Crl.A.No.102/2019, by the Principal Sessions Judge, Tiruppur.
- 2.The facts leading to filing of this Criminal Revision Petition are that two months before when P.W.1/Prema was in her house at 3rd lane, Kanchana Compound, Selvan Nagar, the petitioner/accused was alleged to have introduced himself to her, as he is the in-charge of the house and obtained her mobile number from P.W.1 and thereafter, frequently, he called her during the night hours and that on 24.03.2017, at about 4.00 p.m., when P.W.1 went to the State Bank at Murugampalayam for withdrawing the amount, the petitioner/accused was said to have followed her and threatened her by using filthy

language and thereafter, P.W.1 and two others created shouting and after that, the petitioner/accused ran away from the scene of occurrence. Hence, on the basis of the complaint given by PW.1, the Petitioner/Accused was charge sheeted for the offence under Sections 294(b) and 4 of the Tamil Nadu Prohibition of Women Harassment Act. The case was taken on CC.No.939 of 2019 by the Judicial Magistrate IV, Tirupur and after full trial, the petitioner was found guilty and in and by the judgement, dated 17.09.2019, the Petitioner/Accused was convicted and sentenced for the offence under Section 294(b) of IPC to undergo three months Rigorous Imprisonment and for the offence under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act, to undergo three months Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo two weeks Simple Imprisonment. The sentences were ordered to run concurrently. The sentence of imprisonment was suspended by the Trial Court till 14.10.2019 in Cr.MP.No.4171 of 2019, dated 17.09.2019. Against the judgement of conviction and sentence of the Trial Court, the Petitioner/Accused had filed CA.No.102 of 2019 before the Principal Sessions Judge, Tiruppur, along with Cr.MP.No.1269 of 2019, seeking suspension of sentence and in and by the impugned order, the said petition was dismissed for default for non appearance of the counsel on 19.10.2019. Hence, this Criminal Revision Petition has been filed.

3.The learned counsel for the petitioner/appellant, would submit that the petition for suspension of sentence was posted on 19.10.2019 i.e., on Saturday and due to his illness, the learned counsel was unable to appear before the Court on the particular day. The Trial Court without granting opportunity, had dismissed the petition for suspension of sentence on the same day for default and the failure of the counsel for the petitioner to appear before the Appellate Court was neither wilful nor wanton. The Trial Court having suspended the sentence and that the sentence was ordered only for a period of three months, the Appellate Court ought to have either granted suspension of sentence or even one more opportunity for appearance of the counsel for the petitioner and the learned counsel would seek that the order passed by the Trial Court, dismissing the petition for suspension of sentence may be set aside and the petition may be taken on file.

4.The learned Additional Public Prosecutor would submit that the Appellate Court had dismissed the petition for

suspension of sentence for non appearance of the counsel for the petitioner.

- 5.This Court heard the submissions made by the learned counsel on either side and also perused the impugned order and perused the materials placed on record.
- 6.Taking into consideration, the facts and circumstances of the case, in order to give one more opportunity and to meet the ends of justice, the impugned order, dismissing Cr.MP.No.1269 of 2019 is set aside, however subject to condition that the petitioner/appellant shall pay a cost of Rs.1,000/- to the District Legal Service Authority, Tiruppur within a period of one week from the date of receipt of a copy of this order and produce the receipt and on such payment being made, the Appellate Court is directed to take CrI.M.P.No.1266/2019 on file and pass orders, in accordance with law and on merits of the case. Accordingly, this Criminal Revision is allowed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To:

1.The Principal Sessions Judge, Tiruppur.

2. The The Inspector of Police, Veerapandi Police Station, Tirupur.

3. The Public Prosecutor, High Court, Chennai.

4. The District Legal Service Authority, Tiruppur

+1cc to Mr.K.Kannan , Advocate SR.No. 95922

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A.SK(19/11/2019)

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