

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Tenth day of February Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice R. MAHADEVAN

CRIMINAL MISCELLANEOUS PETITION NO.666 OF 2020

IN CRL.APPEAL.NO.31 OF 2020

PERIYASAMY

[PETITIONER / APPELLANT]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
MARANDAHALLI POLICE STATION,
MARANDAHALLI,
DHARMAPURI DISTRICT
(CRIME NO.60 OF 2017)

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.31 OF 2020 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the Petitioner/Appellant herein in S.C.No.89/2017 by judgment dated 26.11.2019 passed by the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri, Dharmapuri District and enlarge the petitioner on bail, pending disposal of the above CRL.A.NO.31 OF 2020 [IN CRL.MP.NO.666 OF 2020]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.31 OF 2020 on the file of the High Court and upon hearing the arguments of M.R.JOTHIMANIAN, Advocate for the petitioner and of MR.K.PRABAKAR, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petitioner faced trial in S.C.No.89 of 2017 on the file of learned Sessions Judge, Fast Track Mahila Court, Dharmapuri District. Under judgment dated 26.11.2019, the trial Court convicted and sentenced the petitioner / accused for the offences as tabulated hereunder:-

Convicted of the Offence	Sentenced
Under Section 341 IPC	To undergo one month Simple Imprisonment.
Under Section 323 IPC	To undergo one year Simple Imprisonment.
Under Section 354 IPC	To undergo two years Rigorous Imprisonment.

Convicted of the Offence	Sentenced
Under Section 376 IPC	To undergo ten years Rigorous Imprisonment and to pay a fine of Rs.25,000/- in default to undergo one year Rigorous Imprisonment.
Under Section 4 r/w 3 of the Tamil Nadu Prohibition of Harassment of Women Act, 1998	To undergo three years Rigorous Imprisonment and to pay a fine of Rs.25,000/- in default to undergo six months Rigorous Imprisonment.

2. In the said judgment of the trial Court, it was held that out of fine amount of Rs.50,000/-, Rs.25,000/- shall be paid to the prosecutrix, as compensation under Section 357 (1) of the Cr.P.C. The sentences were ordered to run concurrently. As against the aforesaid convictions and sentences, the petitioner has filed this Criminal Appeal, along with the petition seeking suspension of sentence.

3. It is submitted by the learned counsel for the petitioner / accused that the amount of fine had already been paid, as directed by the trial Court in its judgment. He further submitted that there are several infirmities and inconsistencies in the prosecution case and there are also contradictions in material particulars in the evidence of the prosecution. He also submitted that there are arguable points available in this Criminal Appeal, which is not likely to be taken up for final hearing in the near future and hence, the substantive sentence imposed against the petitioner may be suspended.

4. Heard learned Additional Public Prosecutor on the submissions made by the learned counsel for petitioner.

5. Considering the facts and circumstances of the case and taking into consideration the submissions of learned counsel for petitioner, this Court is of the view that the petitioner herein can be granted the relief of suspension of sentence. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner herein is directed to be enlarged on bail on the following conditions:-

a) The Petitioner/Accused is directed to execute 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 learned Sessions Judge, Fast Track Mahila Court, Dharmapuri District;

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

c) The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every English Calender Month, until the disposal of the Appeal and if he is not able to appear before the Trial Court on any day, due to unavoidable circumstances, 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 his absence, as directed by the Trial Court. Such an application shall not be entertained often.

-sd/-

10/02/2020

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, DHARMAPURI,
DHARMAPURI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MARANDAHALLI POLICE STATION,
MARANDAHALLI,
DHARMAPURI DISTRICT.

+1C.C. to M.R.JOTHIMANIAN Advocate on payment of necessary charges SR NO.2509

Order

in
CRL MP.666/2020
in
CRL.A.31/2020

Date :10/02/2020

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MR.12/02/2020