

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Crl.MP.Nos.3779 & 3777 of 2020

in Crl.RC.No.471 of 2020

S.Hari Krishnan

... Petitioner

In both the petitions

Vs.

State rep by

The Sub Inspector of Police,
All Women Police Station,
Thiruvannamalai

... Respondent

In both the petitions

PRAYER in Crl.MP.No.3779 of 2020: Criminal Miscellaneous Petition has been filed under Section 397 (1) of Cr.P.C to suspend the sentence imposed in C.C.No.125 of 2016 passed by the learned Judicial Magistrate-1, Tiruvannamalai dated On 25.06.2019 and order passed in Crl.A.No.26 of 2019 dated on 22.01.2020 on the file of the learned District Judge, Tiruvannamalai and enlarge the petitioner on bail pending disposal of the Criminal Revision on the file of this Hon'ble Court.

PRAYER in Crl.MP.No.3777 of 2020: Criminal Miscellaneous Petition has been filed under Section 482 of Cr.P.C to exempt the petitioner from surrendering in pursuant to the order passed by the learned Judicial Magistrate No.1, Tiruvannamalai in CC.No.125 of 2016 dated 25.06.2019 and in Crl.A.No.26 of 2019 passed by the learned Principal District Judge, Tiruvannamalai, dated 22.01.2020.

For Petitioner : Mr.M.Krishnamoorthy

For Respondent : Mr.T.Shunmuga Rajeswaran
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed by the accused against the judgment passed by the learned Principal District and Sessions Judge, Tiruvannamalai in C.A.No.26 of 2019 dated 22.01.2020 confirming the judgment of conviction and sentence passed by the learned Judicial Magistrate No.1 Court, Tiruvannamalai in C.C.No.125 of 2016 dated 25.06.2019.

2. The respondent has filed a charge sheet against the petitioner for the offence punishable under Sections 294(b), 506(i) and 498-A of IPC. The learned Judicial Magistrate has acquitted the petitioner for the offences under Sections 294(b) and 506(i) IPC, however, he convicted the petitioner for the offence under Section 498-A IPC and sentenced him to undergo one year simple imprisonment

and also to pay a fine of Rs.1,000/-, in default, simple imprisonment for one month and also gave set off the period already undergone by the petitioner. Aggrieved by the same, the petitioner has filed an appeal in C.A.No.26 of 2019 on the file of the Principal District and Sessions Judge, Tiruvannamalai. The learned Principal District and Sessions Judge, by the judgment dated 22.01.2020 dismissed the said appeal and thereby confirmed the judgment of conviction and sentence passed by the trial court. Feeling aggrieved, the petitioner has filed the present criminal revision petition.

3. The learned counsel for the petitioner has submitted that there are material contradictions in the evidence adduced by the prosecution. He further submitted that the only allegation against the petitioner is that he is not co-operating for medical check up with regard to whether he is having capacity to give issues. He further submitted that the prosecution has not taken any steps to send the petitioner for medical examination. He further submitted that the main issue between the petitioner and his wife is that she is giving the entire salary of the petitioner to her family and when the same was questioned by him, she gave a false complaint. He further submitted that since there is no issue, the petitioner has suggested to adopt a child and for that also, she has not agreed and she is having grievance with regard to that. He further submitted that through out the trial and also during pendency of the appeal, the petitioner was on bail. The petitioner is having chance of success in the criminal revision and there is no possibility of taking up criminal revision in the near future and therefore he prayed to suspend the sentence and release the petitioner on bail.

4. Per Contra, the learned Government Advocate (Criminal Side) has submitted that after 16 years, there was no issue for the petitioner and instead of testing himself, he scolded his wife as she is not having capacity to give birth to a child and also caused mental cruelty and driven her from the matrimonial house. He further submitted that the trial court after taking into consideration of the aforesaid facts, has rightly convicted the petitioner for the alleged offence under Section 498-A IPC and the appellate court also has rightly confirmed the same and therefore he opposed to suspend the sentence.

5. Considering the fact that the petitioner was on bail through out the trial and also during pendency of the appeal and also the submission made by the learned counsel for the petitioner that the petitioner is having arguable points in the criminal revision and he is having a chance to success, this court is inclined to suspend the sentence awarded by the trial court and confirmed by the appellate court. Accordingly, it is ordered to release the petitioner on bail with the following conditions:-

(i) The petitioner shall surrender before the trial court within a week from the date of receipt of a copy of this order.

(ii) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties for like sum each, and that

(iii) The petitioner shall appear before the trial court on the 1st working day of every month until disposal of the Criminal Revision Petition.

6. The Registry is directed to call for the records from both the courts below and post the matter on 22.06.2020.

-sd/-

01/06/2020

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 JUDICIAL MAGISTRATE,
NO.I, TIRUVANNAMALAI

2 THE DISTRICT JUDGE
TIRUVANNAMALAI

3 THE PRINCIPAL DISTRICT AND
SESSIONS JUDGE, TIRUVANNAMALAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI,

copy to:-

THE SECTION OFFICER
CRIMINAL SECTION, HIGH COURT, MADRAS

C.C. to M/S.M.KRISHNAMOORTHY Advocate on payment of necessary charges

Order

in
CRL MP.3779 & 3777/2020

in
CRL RC.471/2020

Date :01/06/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format