

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Thirteenth day of March Two Thousand Twenty
PRESENT

The Hon`ble Mr Justice P. RAJAMANICKAM

CRIMINAL MISCELLANEOUS PETITION Nos.13652 & 13656 of 2019
IN CRL RC.Nos.1058 & 1059/2018

SAILESH

[PETITIONER / PETITIONER /
APPELLANT / ACCUSED
IN BOTH THE PETITIONS]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
W-10 ALL WOMEN POLICE STATION,
KOTHAWALCHAVADI,
CHENNAI-600 001

[RESPONDENT / RESPONDENT /
RESPONDENT / COMPLAINANT
IN CRL.MP.NO.13652/2019
IN CRL.RC.NO.1058/2018]

SADHANA

[RESPONDENT / RESPONDENT /
RESPONDENT / COMPLAINANT
IN CRL.MP.NO.13656/2019
IN CRL.RC.NO.1059/2018]

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
W-10 ALL WOMEN POLICE STATION,
KOTHAWALCHAVADI,
CHENNAI-600 001

[RESPONDENT / RESPONDENT /
RESPONDENT / COMPLAINANT
IN CRL.MP.NO.13656/2019
IN CRL.RC.NO.1059/2018]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.Nos.1058 & 1059/2018 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence passed by the Learned III Metropolitan Magistrate, George Town, Chennai in C.C.No.1873/2012 by its order dated 22.06.2017 which was confirmed by the Learned XVII Additional Sessions Judge, Chennai passed in C.A.NO.168/2017 by its order dated 7/9/2018 and release the petitioner on bail, pending disposal of the above Crl.RC.Nos.1058 & 1059/2018. [IN CRL.MP.Nos.13652 & 13656/2019]

Order : These petitions coming on for orders upon perusing the petitions and Memorandum of Grounds in Crl.RC.Nos.1058 & 1059/2018 of On the file of the High Court and upon hearing the arguments of M/S.S.SHANKAR, Advocate for the petitioner [IN BOTH THE PETITIONS] and of M/S.T.SHUNMUGARAJESWARAN, GOVERNMENT ADVOCATE O/O.PUBLIC PROSECUTOR on behalf of the 1st Respondent [IN CRL.MP.NO.13652/2019 IN CRL.RC.1058/2018] and of M/S.M.MOHAMMED RAFI, Advocate on behalf of the 1st Respondent [IN CRL.MP.NO.13656/2019 IN CRL.RC.1059/2018] and of M/S.T.SHUNMUGARAJESWARAN, GOVERNMENT ADVOCATE O/O.PUBLIC PROSECUTOR on behalf of the 2nd Respondent [IN CRL.MP.NO.13656/2019 IN CRL.RC.1059/2018] the court made the following order:-

This Criminal Revision Petitioner was charged under Section 354 of I.P.C and Section 4 of TNPWH Act as he has misbehaved with his minor daughter, aged about 14 years. The Trial Court has found guilty and sentenced him under Section 354 of I.P.C, to undergo six months Rigorous Imprisonment and to pay a fine of Rs.1000/- in default, one month Simple Imprisonment and under Section 4 of TNPWH Act, sentenced him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default, one month Simple Imprisonment. The trial Court has also ordered to give set off under Section 428 of Cr.P.C with regard to the period which was already undergone by the petitioner/accused herein.

2. Challenging the said conviction and sentence, the petitioner has filed Criminal Appeal No.168 of 2017, on the file of XVII Additional Sessions Judge, City Civil Court, Chennai. The defacto complainant namely Mrs.Sadhana, has filed Criminal Appeal No.231 of 2017 on the file of the same Court, to enhance the punishment ordered by the Trial Court. The Learned XVII Additional Sessions Court, Chennai, vide its common judgment, dated 07.09.2018 has dismissed the appeal filed by the petitioner/Accused in Crl.A.No.168 of 2017 and partly allowed the appeal which was filed by the defacto complainant in C.A.No.231 of 2017 and enhanced the punishment for offence under Section 354 of I.P.C from six months to two years Rigorous Imprisonment and for offence under Section 4 of TNPHW Act, the imprisonment was enhanced from one year to three years Rigorous Imprisonment and with regard to fine, the same was confirmed.

3. Aggrieved by the same, the Accused has filed the present Criminal Revision cases.

4. The Learned Counsel for the petitioner/Accused has submitted that the petitioner is in custody from 15.10.2019. He further submitted that there are material contradictions in the evidence let in by the prosecution witnesses and the petitioner is having chance of success in Criminal Revision cases. He further submitted that as per the direction of this Court dated 27.02.2020, the petitioner herein has deposited a sum of Rs.5,00,000/- (Rupees Five Lakhs only) before the Trial Court and that the victim girl (PW.2) may be permitted to withdraw the same amount and for that, the petitioner has no objection. He has also filed a memo to that effect by enclosing a copy of the receipt.

5. The Learned Counsel appearing for the 1st respondent/defacto complainant has submitted that the victim girl (PW.2) may be permitted to withdraw the above said amount and she leave it to the discretion of the Court with regard to suspension of sentence.

6. The Learned Government Advocate (Crl.Side) appearing for the 2nd respondent would submit that taking into consideration of the fact and circumstances of the case, this Court may be passed suitable orders.

7. Taking into consideration of the fact that the petitioner is in custody from 15.10.2019 and also the fact that as per the direction of this Court, the petitioner has deposited a sum of Rs.5,00,000/- (Rupees Five Lakhs only) before the Trial Court and the petitioner is not having any objection for withdrawing the said amount by the victim girl (P.W.2) and also the fact that there is no possibility to take Criminal Revision cases in near future, this Court is inclined to suspend the sentence awarded by the trial Court and enhanced by the Appellate Court. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner/accused is directed to enlarge 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 III Metropolitan Magistrate, George Town, Chennai.

b) The Petitioner/Accused shall appear before the Trial Court at 10.30 A.M., on the first working day of every month until further orders.

8. The victim girl (PW.2) is permitted to withdraw a sum of Rs.5,00,000/- (Rupees Five Lakhs only), which was deposited by the petitioner herein before the Trial Court.

-sd/-

13/03/2020

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 METROPOLITAN MAGISTRATE
NO.III, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE XVII ADDITIONAL CITY CIVIL COURT,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
W-10 ALL WOMEN POLICE STATION,
KOTHAWALCHAVADI,
CHENNAI-600 001.

6 THE SUPERINTENDENT,
CENTRAL PRISON, CHENNAI.

+ 1 C.C. to M/S.S.SHANKAR Advocate on payment of necessary
charges SR.No.5090

Order

in

CRL MP.No.13652 & 13656/2019

in

CRL RC.Nos.1058 & 1059/2018

Date :13/03/2020

सत्यमेव जयते

From 7.2.2001 the Registry is issuing certified
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