



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourteenth day of December Two Thousand Twenty One

WEB COPY

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.12711 of 2021

IN CRL RC.919/2021

KISHORE @ KISHORE KUMAR

[PETITIONER]

Vs

STATE BY

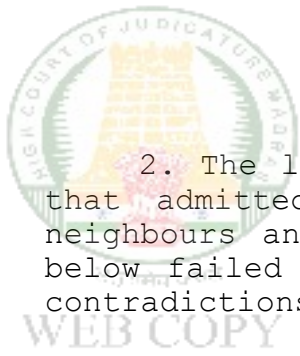
[RESPONDENT]

THE SUB-INSPECTOR OF POLICE,
P2, OTTERI POLICE STATION,
CHENNAI-600 011.
CRIME NO. 463 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No.919 OF 2021 on the file of the High Court, the High Court will be pleased to suspend the execution of the sentence of simple imprisonment for a period of three months with fine of Rs.500/- for the offence u/S. 448 IPC and further sentence of rigorous imprisonment for a period of six months with fine of Rs.1000/- for the offence u/S.354(A) IPC against the petitioner/Appellant imposed by the learned X Metropolitan Magistrate Court, Egmore, Chennai-600008 on 17.09.2019 in C.C.No.2036 of 2015 which confirmed by learned XXIII Additional Sessions Judge, City Civil Court, Chennai on 30.07.2021 in Criminal Appeal No.355 of 2019 for pending disposal of the above CRL.RC.NO.919 OF 2021 [IN CRL.MP.NO.12711 OF 2021]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Criminal Revision Case No.919 OF 2021 on the file of the High Court and upon hearing the arguments of M/S. E.LAKSHMIPATHY, Advocate for the petitioner and of M/S.S.SUGENDRAN, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous petition has been filed seeking to suspend the sentence of imprisonment imposed on the petitioner in Judgment, dated 30.07.2021 passed in C.A.No.355 of 2019 by the learned XXIII Additional Sessions Judge, City Civil Court, Chennai, by confirming the Judgment dated 17.09.2019 passed in C.C.No.2036 of 2015 by the X Metropolitan Magistrate at Egmore, Chennai.



2. The learned counsel for the petitioner/accused would submit that admittedly the petitioner and the defacto complainant are neighbours and there is previous enmity between them. The Courts below failed to take into consideration the discrepancies and the contradictions in the evidence of the witnesses.

3. It is the case of the prosecution that the petitioner had left his mobile phone at the house of the defacto complainant after the occurrence and it was later recovered in the presence of witnesses. Whereas it is the case of P.W.2, the husband of the defacto complainant PW1, that the mobile phone was produced by him to the respondent Police at the time of preferring the complaint. Though one Umapathy who is the Police Constable related to the petitioner is stated to have given a complaint on behalf of the defacto complainant he has not been examined in the case, creating doubt in the prosecution case. He would further submit that the independent witnesses in this case have not supported the case of the prosecution.

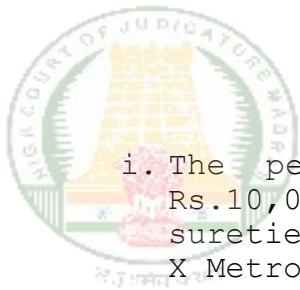
4. According to the learned counsel for the Petitioners/accused, there are arguable points available in the above criminal revision, which are not likely to be taken for final hearing in the near future and the Petitioner/ accused have got a fair chance of succeeding in the Revision.

5. Mr.S.Sugendran, learned counsel appearing for the respondent would submit that it is the case where the petitioner had trespassed into the house of the defacto complainant during night hours and has touched her inappropriately and when she raised alarm, the petitioner had dropped his mobile phone and ran away from the place of occurrence.

6. Heard the learned counsel for the petitioner/accused and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials on record.

7. The Courts below finding that the case has been proved beyond all reasonable doubts and found the petitioner guilty for the offences charged and convicted him for offences under Sections 448 and 354 A of IPC.

8. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, 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 reliefs of suspension of sentence and bail are granted, on the following conditions :



i. The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the X Metropolitan Magistrate, Egmore, Chennai.

ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

9. The Criminal Miscellaneous Petition stands ordered accordingly.

-sd/-
14/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE NO.X,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI.

3 THE XXIII ADDITIONAL SESSIONS JUDGE,
CITY CIVIL COURT, CHENNAI.

4 THE SUB INSPECTOR OF POLICE,
P2, OTTERI POLICE STATION,
CHENNAI-600 011.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.



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

WEB COPY

Order

in
CRL MP.12711/2021

in
CRL RC.919/2021

Date :14/12/2021

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MK:14/12/2021