



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Twenty Ninth day of January Two Thousand and Twenty One

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) Nos.557 and 558 of 2021
in
CRL RC(MD)No.37 of 2021

MARIMUTHU MANI

... PETITIONER/PETITIONER
IN BOTH PETITIONS

Vs

THE STATE REP.BY
THE SUB-INSPECTOR OF POLICE,
PETTAI POLICE STATION,
TIRUNELVELI TOWN.
UNDER CRIME NO.867/2012.

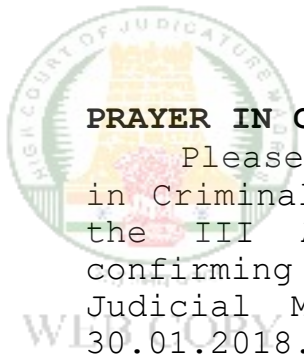
... RESPONDENT/RESPONDENT
IN BOTH PETITIONS

PRAYER IN CRL MP(MD)No.557 of 2021 in CRL RC(MD)No.37 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of conviction, passed in C.C.No.268/2014, on the file of Judicial Magistrate Additional Mahila Court, Tirunelveli, dated 30.01.2018, as confirmed in Criminal Appeal No.25/2018, dated 17.08.2019, on the file of the III Additional District and Sessions Court, Tirunelveli, convicting the petitioner under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, 2002 and sentenced the petitioner to undergo Rigorous Imprisonment for a Period of one year and to pay a fine of Rs.10,000/- with default sentence of 3 months Simple Imprisonment.

PRAYER IN CRL MP(MD)No.558 of 2021 in CRL RC(MD)No.37 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to exempt the petitioner from surrender in preferring the Revision Petition filed against the order passed in C.C.No.268/2014, on the file of Judicial Magistrate Additional Mahila Court, Tirunelveli, dated 30.01.2018, as confirmed in Criminal Appeal No.25 of 2018, dated 17.08.2019, on the file of the III Additional District and Sessions Court, Tirunelveli, Pending disposal of the above Criminal Revision Petition.



PRAYER IN CRL RC(MD)No.37 of 2021:

Pleased to call for the records and set aside the orders passed in Criminal Appeal No.25 of 2018, dated 17.08.2019, on the file of the III Additional District and Sessions Court, Tirunelveli, confirming the orders passed in C.C.No.268 of 2014, on the file of Judicial Magistrate Additional Mahila Court, Tirunelveli, dated 30.01.2018.

Order : These petitions coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.K.R.LAXMAN, Advocate for the petitioner in both petitions, and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent in both petitions, the court made the following order:-

These petitions have been filed (i) to suspend the sentence passed in C.C.No.268 of 2014, on the file of the Judicial Magistrate, Additional Mahila Court, Tirunelveli, dated 30.01.2018, as confirmed in Criminal Appeal No.25 of 2018, dated 17.08.2019, on the file of the III Additional District and Sessions Judge, Tirunelveli and (ii) to exempt the petitioner from surrendering before the lower Court.

2.The allegation against the petitioner is that the petitioner misbehaved with a minor child. A case was registered against the petitioner in Crime No.867 of 2012 under Sections 294(b), 354, 506 (i) I.P.C. and Section 4 of Tamil Nadu Prohibition of Women Harassment Act. The case was taken on file as C.C.No.268 of 2014 and the Additional Mahila Court, Tirunelveli, found the petitioner not guilty under Sections 294(b), 357, 506(i) I.P.C. and found the petitioner guilty under Section 4 of Tamil Nadu Prohibition of Women Harassment Act. The petitioner was sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.10,000/-, in default, to undergo a further period of three months simple imprisonment under Section 4 of the Tamil Nadu Prohibition of Women Harassment Act. Against the said conviction and sentence, the petitioner preferred an appeal in C.A.No.25 of 2018 before the III Additional District and Sessions Judge, Tirunelveli and the learned Judge confirmed the conviction and sentence, on 17.08.2019. Against the same, the petitioner filed the Revision in Crl.R.C.(MD)No.37 of 2021. Along with the revision, the petitioner preferred these petitions (i) for suspension of sentence and (ii) for exempting the petitioner from surrendering.

3.On the side of the petitioner, it is stated that the petitioner has paid the fine amount. There is a money dispute between the complainant and the petitioner, with that a motive, a false case has been foisted against the petitioner. There is a delay in lodging the complaint and there are much more points to be considered in the main revision and prayed the sentence to be suspended.



4. On the side of the prosecution, it is stated that the conviction and sentence imposed by the trial Court was confirmed by the first Appellate Court. P.W.2 has given explanation for the delay. P.W.3, who is the husband of P.W.2, is a mason, only after returning from his work, the complaint was lodged and that the delay is only 8 hours, which is reasonable. Though the judgment was pronounced on 17.08.2019 itself, the petitioner has not chosen to surrender before the Court and prayed the petition to be dismissed.

5. It is seen that the petitioner was absent on the date of judgment by the trial Court. Without surrendering himself, the petitioner has come forward with the petition for suspension of sentence. The petitioner was not given suspension of sentence by the First Appellate Court. In the above circumstances, the petitioner is hereby directed to surrender before the trial Court and thereafter, the petitioner is at liberty to approach this Court.

6. With the above observation, these petitions are dismissed.

sd/-
29/01/2021

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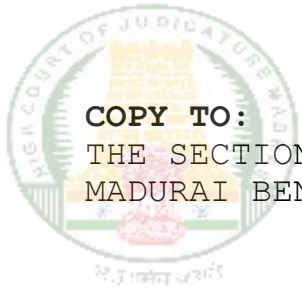
/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE III ADDITIONAL DISTRICT AND SESSIONS JUDGE,
TIRUNELVELI.
2. THE JUDICIAL MAGISTRATE,
ADDITIONAL MAHILA COURT, TIRUNELVELI.
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE SUB-INSPECTOR OF POLICE,
PETTAI POLICE STATION,
TIRUNELVELI TOWN.
5. THE ADDITIONAL PUBLIC PROSECUTOR

MAURANDI BENCH OF MADRAS HIGH COURT, MADURAI.



WEB COPY

CRL MP(MD) Nos.557 and 558 of 2021

COPY TO:

THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP (MD) Nos.557 and 558 of 2021
in
CRL RC (MD) No.37 of 2021
Date :29/01/2021

LS
TK/VR/SAR.4/09.02.2021/4P/7C