



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Fourth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)Nos.1866 and 1867 of 2021
in
Crl.R.C.(MD) No.174 of 2021

SOLOMON

... PETITIONER/APPELLANT/ACCUSED

Vs

THE STATE REPRESENTED BY.
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, AMBASAMUDRAM,
TIRUNELVELI DISTRICT.
CRIME.NO. 17 OF 2014.

... RESPONDENT/RESPONDENT/COMPLAINANT

Prayer in CRL.MP.(MD)NO.1866 OF 2021:

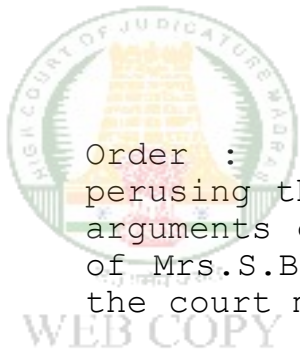
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence by granting bail in CA.No.45 of 2019 dated 07.12.2020 on the file of III Additional Sessions Judge, Tirunelveli partly confirming the conviction of the Learned Judicial Magistrate Court, Cheranmahadevi in CC.No.254 of 2014 dated 07.3.2019 till the disposal of Criminal Revision.

Prayer in CRL.MP.(MD)NO.1867 OF 2021:

To exempt the petitioner from surrender before the III Additional Sessions Judge, Tirunelveli in CA.No.45 of 2019 dated 07.12.2020 partly allowing and partly confirming the order of conviction in CC.No.254 of 2014 on the file of District Munsif Cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District dated 07.03.2019.

Prayer in CRL.RC(MD).NO.174 OF 2021:

pleased to call for the records and set aside the order and conviction of III Additional Sessions Judge, Tirunelveli in C.A.No.45/2019 dated 07.12.2020 by partly allowing and partly affirming the order and conviction of the learned District Munsif Cum Judicial Magistrate, Cheranmahadevi, Tirunelveli District in C.C.No.254/2014 dated 07.03.2019.



Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.R.APPAVU RETHINAM, Advocate for the petitioner and of Mrs.S.Bharathi, Government Advocate on behalf of the Respondent the court made the following order:-

These petitions have been filed (i) to suspend the execution of sentence by granting bail in C.A.No.45 of 2019, dated 07.12.2020 on the file of III Additional Sessions Judge, Tirunelveli, partly confirming the conviction of the District Munsif cum Judicial Magistrate, Cheranmahadevi in C.C.No.254 of 2014, dated 07.03.2019 and (ii) to exempt the petitioner from surrendering before the lower Court.

2. The case against the petitioner is that there was a family dispute between the petitioner and his wife. A case was registered in Crime No.17 of 2014 and the same was taken on file as C.C.No.254 of 2014 on the file of the District Munsif cum Judicial Magistrate, Cheranmahadevi. The trial Court acquitted the petitioner under Section 406 I.P.C. and convicted him under Sections 498 (A) and 324 I.P.C.. For the offence under Section 498(A) I.P.C., the petitioner was sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period of one month simple imprisonment. Under Section 324 I.P.C., the petitioner was sentenced to undergo six months rigorous imprisonment. Against the conviction and sentence, the petitioner preferred an Appeal before the III Additional Sessions Judge, Tirunelveli in C.A.No.45 of 2019. The first appellate Court set aside the sentence imposed under Section 324 I.P.C. and confirmed the sentence with regard to Section 498(A) I.P.C. Against the order, the petitioner preferred a Criminal Revision in Crl.R.C.(MD) No.174 of 2021. Along with the revision, the petitioner filed these applications (i) for suspension of sentence (ii) for exemption of surrendering before the trial Court.

3.On the side of the petitioner, it is stated that the trial Court and the first Appellate Court failed to consider the cross examination of the witnesses and concentrated only on the chief examination of the witnesses. There are contradictions between the evidence of P.W.1, P.W.2 and P.W.3. The complaint itself is doubtful. The petitioner has to take care of his old parents and prayed the sentence to be suspended.

4.On the side of the respondent, it is stated that both the trial Court and the first Appellate Court found the petitioner guilty under Section 498(A) I.P.C. The prosecution has examined 8 witnesses (P.W.1 to P.W.8) and marked 5 documents (Ex.P1 to Ex.P5). The evidence of P.W.1 was corroborated by the evidences of P.W.2 and P.W.3. The prosecution has proved the case beyond all reasonable doubt.

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the petitioner to escape from the clutches of law and prayed the petition to be dismissed.

5.It is seen that the offence against the petitioner is a matrimonial dispute. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:

(I) The petitioner is not exempted from surrendering before the trial Court and the petitioners are directed to surrender before the Judicial Magistrate Cum Munsif, Seranmahadevi, within a period of two weeks from the date of receipt of copy of this order.

(ii) The petitioner 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 Judicial Magistrate cum Munsif, Seranmahadevi.

(iii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iv) 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.

7.Accordingly, Crl.M.P.(MD)No.1867 of 2021 is dismissed.

sd/-

04/03/2021

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

TO

1. THE III ADDITIONAL SESSIONS JUDGE,
TIRUNELVELI



2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE
CHERANMAHADEVI.

3. DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI.

4. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, AMBASAMUDRAM,
TIRUNELVELI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.S.SAJI BINO, Advocate SR.No.1882

ORDER
IN
Crl.M.P. (MD) Nos.1866 and 1867
of 2021
in
Crl.R.C. (MD) No.174 of 2021
Date :04/03/2021

NR/VR/SAR-II (09.03.2021) 4P:7C