



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

Thursday, the Eighteenth day of November Two Thousand and Twenty
One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)Nos.8676 and 8677 of 2021
in
Crl.R.C.(MD)No.747 of 2021

MURUGESAN

... PETITIONER/ PETITIONER
IN BOTH THE PETITIONS

Vs

THE STATE REP.BY,
THE SUB INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THENI.

... RESPONDENT/ RESPONDENT
IN BOTH THE PETITIONS

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 imposed by Judgment made in Crl A No.47/2017, Principal District and Sessions Judge, Theni, dated 27.08.2021 confirming the conviction and sentenced imposed by the Learned Judicial Magistrate, Theni in C.C.No.75/2009, dated 04.03.2017 pending disposal of the Criminal R.C.,

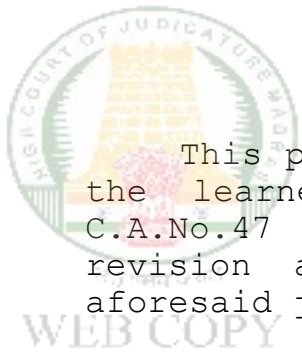
Prayer in CRL MP(MD). 8677/ 2021 :

To pass an order of exemption from surrendering before the trial court for the condition and sentence made in Crl A No.47/2017 on the file of Principal District and Sessions Judge, Theni dated 27.08.2021 confirming the conviction and sentenced imposed by the Learned Judicial Magistrate, Theni in C.C.No.75/2009, dated 04.03.2017 pending disposal of the Criminal Revision Petition.

Prayer in CRL RC(MD). 747/ 2021 :

To call for records and set aside the judgment and conviction dated 27.08.2021 passed in Crl A No. 47 of 2017 on the file of the Principal District and Sessions Judge, Theni and confirming the conviction and sentence imposed by the Learned Judicial Magistrate, Theni in C.C.No.75/2009, dated 04.03.2017 and acquit the petitioner/accused.

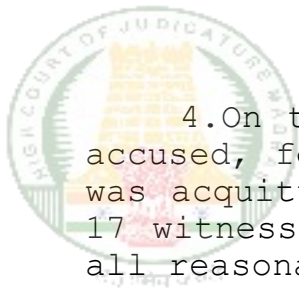
Order : These petitions coming up for orders on this day, upon perusing the petitions filed in support thereof and upon hearing the arguments of Mr.K.GUHAN, Advocate for the petitioner in both the petitions and of MR.K.SURESH KUMAR, Government Advocate on behalf of the Respondent in both the petitions, the court made the following



This petition has been filed to suspend the sentence imposed by the learned Principal District and Sessions Judge, Theni in C.A.No.47 of 2017 dated 27.08.2021, till the disposal of the revision and for exemption of his surrender pursuant to the aforesaid judgment.

2.The case against the petitioner is that he and others committed dowry harassment. A case was filed against the petitioner and others in Crime No.16 of 2008 under Sections 498(A), 294(b), 494 of IPC and Section 4 of the Women's Harassment Act. The chargesheet was filed and the same was taken on file as C.C.No.75 of 2009 on the file of the learned Judicial Magistrate, Theni. After trial, the learned Judicial Magistrate, Theni found the petitioner/A1 and A2 guilty and he convicted A1 and sentenced him to undergo two years simple imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo one month simple imprisonment for the offence under Section 498(A) of IPC. A1 was acquitted for the offences under Sections 294(b), 494 of IPC and Section 4 of Women's Harassment Act. The learned Judicial Magistrate, Theni convicted A2 and sentenced her to undergo two years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo one month simple imprisonment for the offence under Section 498(A) r/w. Section 109 of IPC. A2 was acquitted for the offences under Section 494 r/w. Section 109 of IPC. A3 to A6 were acquitted for the offences under Section 498(A) r/w. Sections 109, 494 of IPC r/w. Section 109 of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner/A1 and A2 have filed a criminal appeal in C.A.(MD)No.47 of 2017 before the learned Principal District and Sessions Judge, Theni. The learned Judge has acquitted for the charges against A2 and confirmed the conviction and sentence imposed on the petitioner/A1. Against which, the petitioner has filed a Criminal Revision in Crl.R.C.(MD)No.747 of 2021 and along with the revision, they filed this petition for suspension of sentence and for exemption of his surrender.

3.On the side of the petitioner, it is stated that when the trial Court acquitted the other accused, the petitioner who is living under the same roof, is also entitled for the acquittal. When the appellate Court disbelieved the prosecution witness for the offence against A2, the same yardstick should have been adopted for A1 also. P.W.1 is the wife and P.W.2 and P.W.3 are the parents of the wife, P.W.4 to P.W.6 are the neighbors and they are all interested witnesses. There are major contradictions in the evidence of P.W.2 and P.W.3. There is absolutely no evidence to prove the case. The case is registered under Section 498(A) of IPC and the petitioner is working in TNSTC and prayed the sentence to be suspended till the disposal of the revision and for exemption of his surrender.



4. On the side of the prosecution, it is stated that out of six accused, four were acquitted by the trial Court. One of the accused was acquitted by the appellate Court. The prosecution has examined 17 witnesses and marked three documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

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5. It is seen that the case is a matrimonial case wherein the petitioner was convicted. The petitioner is working in TNSTC and there is no possibility of absconding. There are substantial points in the memorandum of revision, which require a detailed consideration by this Court and the Criminal Revision Case is not likely to be taken up for final hearing in the near future. Hence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

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

(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Theni ;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) the petitioner shall appear before the Trial Court as and when required ;

(iv) the petitioner is not exempted from surrendering before the trial Court.

sd/-
18/11/2021

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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 PRINCIPAL DISTRICT AND SESSIONS JUDGE,
THENI.

2 THE JUDICIAL MAGISTRATE,
THENI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI DISTRICT.

4 THE SUB INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THENI.

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

+1. C.C. to MR.K.GUHAN, Advocate SR.No.8242.

ORDER IN
Crl.M.P.(MD)Nos.8676 and 8677 of 2021
in
Crl.R.C.(MD)No.747 of 2021
Date :18/11/2021

Mrn
MK/PN/SAR.I/22.11.2021/4P/7C