



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

Wednesday, the Twentieth day of October Two Thousand and Twenty One

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN
CRL MP(MD) No.8447 of 2021
IN
CRL A(MD) No.429 of 2021

P.CHINNASAMY

... PETITIONER/APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
CHINNAMANUR POLICE STATION,
THENI DISTRICT.
(CR.NO.252 OF 2018)

... RESPONDENT/COMPLAINANT

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 passed in SC.No.84 of 2019 dt.17/8/2021 by the Sessions Judge, Fast Track Mahila Court, Theni and enlarge him on bail pending disposal of the above appeal.

PRAYER IN CRL A(MD) No.429 of 2021:

To call for records and set aside the judgment and sentence passed in S.C.No.84 of 2019 dated 17.08.2021 on the file of the Sessions Judge, Fast Track mahila Court, Theni, allow the appeal.

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.A.JAYARAMACHANDRAN, Advocate for the petitioner and of Mr.M.MUTHUMANIKKAM, Government Advocate(crl.side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner, by judgment, dated 17.08.2021 passed in S.C.No.84 of 2019, on the file of the Sessions Judge, Fast Track Mahila Court, Theni and to enlarge the petitioner on bail pending disposal of the appeal.

2.The petitioner is the sole accused in Sessions Case No.84 of 2019 on the file of the Sessions Judge, Fast Track Mahila Court, Theni. After full-fledged trial, the learned trial Court came to the conclusion that the petitioner was found guilty under Section 307 and 341 IPC and Section 4 of Tamil Nadu Prohibition of Women



Harassment Act and convicted and sentenced him to undergo 7 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 1 year Simple Imprisonment for the offence under section 307 IPC; to undergo 1 year Simple Imprisonment for the offence under section 341 IPC and to undergo 3 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default to undergo 6 months Simple Imprisonment for the offence under section 4 of the Tamil Nadu Prohibition of Women Harassment Act and directed the above sentences to run concurrently.

3.It is the case of the prosecution that on 10.06.2018 at about 05.30 pm, while the injured/PW2 was in her garden, the petitioner/accused came there and after making abuse, attacked her by using Aruval and thereby caused injury on the back side and left of the neck. After full fledged trial, the learned Sessions Judge, Fast Track Court Mahila Court, Theni, convicted the petitioner/accused as stated supra.

4.Challenging the above said conviction and sentence, the petitioner has filed Crl.A(MD) No.429 of 2021 along with the instant Miscellaneous Petition seeking suspension of sentence and bail.

5.Heard Mr.A.Jayaramachandran, learned counsel for the petitioner and Mr.M.Muthumanikkam, Government Advocate (Crl.side) appearing for the respondent/State.

6.The learned counsel appearing for the petitioner/accused would submit that the evidence given by the injured/PW2 is having lot of contradictions, but without noting the same, the trial court convicted the petitioner/accused, which is erroneous in law. According to him, during the time of occurrence, the petitioner/accused is not having any intention to kill the injured/PW2 and therefore, convicting the petitioner/accused for the offence under section 307 IPC by the trial court is not sustainable and therefore, prays for suspension of sentence.

7.Per contra, the learned Government Advocate (Criminal side) appearing for the respondent/State would submit that the conviction has been rendered, placing reliance upon the evidence given by PW2 to PW4. Being the reason that the evidence given by PW2 to PW4 are all inspire confidence, the learned Sessions Judge has rightly convicted the petitioner/accused and thus, the suspension petition requires dismissal.

8.Considering the submissions made on either side, this Court is of the view that in respect of the presence of PW3 and PW4 in the occurrence place, the evidence given by them requires detailed appraisal. Further, the criminal appeal is not likely to be taken up in the near future. In such view of the matter, this Court is of the view that the petitioner is entitled to the relief of suspension of sentence and bail.



9. Accordingly, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Fast Track Mahila Court, Theni;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the respondent police everyday at 10.30 a.m for the period of four weeks and thereafter, the petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C and shall appear before the trial Court on any other day in lieu of the date of his absence, as directed by the trial Court.

sd/-

20/10/2021

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

TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, THENI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
CHINNAMANUR POLICE STATION, THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.8447 of 2021
in
CRL A(MD) No.429 of 2021
Date :20/10/2021

SS/JM/SAR-II/21.10.2021 : 3P/5C

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