



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.11973 of 2021

in

Crl.A.No.577 of 2021

Srinivasan

... Petitioner/Appellant

Vs.

State Represented by
The Inspector of Police,
Tiruchengode Rural Police Station,
Namakkal District.
(Crime No.348 of 2009)

... Respondent

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389 (1) of the Code of Criminal Procedure, pleaded to suspend the sentence made in judgment in S.C.No.120 of 2018 dated 26.10.2021 on the file of the learned Sessions Judge, (Fast Track Mahila Court), Namakkal and enlarge on bail.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

ORDER

(This case has been heard through video conferencing)

This Criminal Miscellaneous Petition has been filed by the petitioner/appellant, seeking suspension of sentence of imprisonment, imposed against the petitioner in S.C.No.120 of 2018 dated 26.10.2021 by the learned Sessions Judge, (Fast Track Mahila Court), Namakkal.

2. In and by the judgment of the Trial court, the petitioner was found guilty and convicted and sentenced as follows:-



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Offence u/s	Conviction & Sentence
452 IPC	5 years R.I and to pay a fine of Rs.1000/-, in default, undergo six months S.I.
506(i) IPC (2 counts)	1 year R.I each count
366 IPC	10 years R.I and to pay a fine of Rs.5,000/-, in default, undergo six months S.I
4 of Tamil Nadu Prohibition of Harassment of Women Act	3 years R.I and to pay a fine of Rs.10,000/-, in default, undergo six months S.I

against which, the present Criminal appeal has been filed.

3. The case of the prosecution is as under:-

(a) The defacto complainant/Sudha had studied M.A. M.Ed and was working as a teacher. The accused who is a relative had developed one side love on the said Sudha and told her that he had tied thali to her and she is his wife and caused mental harassment to her using obscene words.

(b) On 09.06.2009, at about 4.00 pm, the accused trespassed into Sudha's house and insisted her to marry him or else threatened to murder her. The accused criminally intimidated Sudha's mother/PW2 and threatened her that she should give her daughter in marriage to him or else he would kill her and her younger daughter. In the presence of PW2, the accused caught hold of Sudha's hand and told that she is his wife and he had tied thali to her and harassed her and committed the offence punishable under Section 452, 506(i) IPC r/w 4 of the Tamil Nadu Prohibition of Harassment of Women Act. The respondent after completion of investigation filed final report and the case was taken up by Judicial Magistrate, Tiruchengode in P.R.C.No.2 of 2018.

(c) The accused entered appearance and after furnishing copies under Section 207 Cr.P.C, the learned Magistrate committed the case to the Trial Court. When questioned, the accused denied the offences and thereby, based on the materials, the Trial Court framed charges for the offences under Sections 452, 506(i)(2counts) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act. When the charges were explained, the accused pleaded not guilty and sought for trial.



(d) On the side of the prosecution, PW1 to PW7 were examined and the Ex.P.1 to Ex.P6 were marked and on the side of the defence, one Palanisamy was examined as DW1 and accused was himself examined as DW2. Meanwhile, on 09.09.2021, the Trial Court framed additional charge under Section 366 IPC and when questioned, the accused pleaded not guilty and thereafter, sought for further cross examination of PW1 to PW4 and they were summoned again. Meanwhile, PW1 passed away and the accused had cross examined PW2 to PW4. The Trial Court, found that the accused guilty for the offences under Sections 452, 366 506 (i)(2counts) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, and convicted and sentenced him as stated above.

4. Learned counsel appearing for the petitioner would submit that the Trial Court framed additional charge for the offence under Section 366 IPC and without there being any evidence had found the petitioner/appellant guilty for the offence under Section 366 IPC. The mother of the alleged victim who had been examined as PW2 had resiled from her earlier statement and had not supported the case of the prosecution. He would further submit that it is admitted case of PW3/paternal uncle of the victim, that he does not know about the incident and PW6/Thangaraj who is alleged to have rescued the victim as per prosecution, has not supported the case of the prosecution.

5. Learned counsel for the petitioner/appellant would further submit that the petitioner/appellant has got a fair chance of succeeding in the Criminal Appeal. There are arguable points available in the Criminal Appeal, however, as the appeal is not likely to be taken for final hearing in the near future, would pray the sentence imposed against the petitioner/appellant may be suspended and the petitioner may be enlarged on bail.

6. Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that the petitioner is the relative of the victim and he had developed one sided love towards PW1 and he had tied thali to her and threatened her saying that she is his wife and he has also harassed her and her mother. Later, while the victim was coming back from the college, he had kidnapped her in an Omni van. He would further submit that during the course of the trial, the Trial Court framed additional charges against the petitioner for the offences under Section 366 IPC and the Trial Court finding the prosecution has proved and the accused has found guilty and convicted him.

7. Heard the learned counsel and perused the materials on record.



8. It is the case of the petitioner that PW2/Mother of the victim has not supported the case of the prosecution. Further, PW3 and PW6 have also stated that they did not directly know about the incident.

9. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/appellant, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-

(a) Accordingly, the petitioner/appellant is ordered to be released on bail on condition to execute his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent, Central Prison, Coimbatore and thereafter, on his release, the petitioner/appellant shall execute two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, (Fast Track Mahila Court), Namakkal within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically and on further conditions that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) The petitioner/appellant shall appear before the Respondent Police on the first working day of every English Calendar month at 10.30 am., until further orders.

10. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-
24/01/2022

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 SESSIONS JUDGE,
(FAST TRACK MAHILA COURT), NAMAKKAL.

2 THE INSPECTOR OF POLICE,
TIRUCHENGODE RURAL POLICE STATION,
NAMAKKAL DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.S.N.ARUNKUMAR Advocate on payment of necessary
charges SR.NO.1079

Order
in
CRL MP.11973/2021
in
CRL A.577/2021

Date :24/01/2022

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JPA 25/01/2022