



*Crl.M.P.No.19386 of 2022
in Crl.RC.No.1598 of 2022*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

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in Crl.RC.No.1598 of 2022

Tamilarasan

... Petitioner/Accused

Vs.

State represented by
Sub-Inspector of Police,
Reddichavadi Police Station,
Cuddalore District.
[Crime No.154 o 2020]

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 482 of Cr.P.C to suspend the sentence imposed in C.C.No.145 of 2020 dated 24.03.2021 on the file of the learned Judicial Magistrate, Additional Mahila Court, Cuddalore which was confirmed by the learned Principal District and Sessions Judge, Cuddalore in Crl.A.No.18 of 2021 dated 29.08.2022 and enlarge the petitioner on bail pending disposal of the above revision.

For Petitioner : Mr.R.Sankarasubbu

For Respondent : Mr.V.Meganathan
Government Advocate (Crl. Side)



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment imposed by the learned Judicial Magistrate, Additional Mahila Court, Cuddalore by order dated 24.03.2021 made in C.C.No.145 of 2020 which was confirmed by the learned Principal District and Sessions Judge, Cuddalore in Crl.A.No.18 of 2021 dated 29.08.2022 and enlarge the petitioner on bail pending disposal of the above revision.

2.The petitioner/accused in C.C.No.145 of 2020 was convicted by the learned Judicial Magistrate, Additional Mahila Court, Cuddalore, by judgment dated 24.03.2021 for the offence under Section 4 of Tamil Nadu Prohibition of Women Harassment Act, sentencing him to undergo two years Simple Imprisonment and imposed a fine of Rs.10,000/-, in default to undergo six months Simple Imprisonment, for the offence under Section 506(i) IPC sentenced him to undergo one year simple imprisonment and acquitted the petitioner for the offence under Section 294(b) IPC. The



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learned Principal District Sessions Judge, Cuddalore, by judgment dated 29.08.2022 dismissed the appeal filed by the petitioner/accused by confirming the conviction and sentence imposed by the Trial Court. Against which, the present revision petition is filed.

3.The gist of the case is that on 23.06.2020 at about 12.30 p.m., the defacto complainant lodged a complaint with the respondent against the petitioner complaining that he lifted the skirt and saree of the defacto complainant and approached with wrong intention, the defacto complainant woke up and shouted at the accused, the accused immediately closed the mouth of the defacto complainant and threatened her that he would kill her if she disclosed the same to others. On receipt of the complaint, P.W.9 registered the FIR in Crime No.154 of 2020 and P.W.10 took up further investigation, visited the scene of occurrence, prepared observation mahazar, rough sketch and examined the witnesses. P.W.4, father of the victim, P.W.2 and P.W.3 who are the neighbours of P.W.1, P.W. 5 and P.W.6 who are the relatives of P.W.1 have corroborated the version of P.W.1. Thereafter, the Trial Court on examination of P.W.1 to P.W.10, Ex.P1 to



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Ex.P5 convicted the petitioner and the Appellate Court dismissed the appeal filed by the petitioner confirming the conviction and sentence passed by the Trial Court as stated above.

4.The contention of the learned counsel for the petitioner is that the petitioner and the defacto complainant both hail from the same Village and there have been constant bickering between them. On 19.06.2020 at about 9.00 p.m., the petitioner along with his mother gone in search of their chicks which had not returned home. During the search, the petitioner accidentally stepped on the leg of P.W.4, there was exchange of abusive words between the defacto complainant and the petitioner. The sons of the defacto complainant also attempted to assault the petitioner. The brother of the petitioner lodged a complaint and a case in Crime No.191 of 2020 registered. On coming to know about the loding of the complaint against P.W.1 and her sons, as a counter blast a false complaint got registered against the petitioner. Further, there is yet another case in C.C.No.180 of 2018 against the family of the defacto complainant by the petitioner's brother. In this case, Police Standing Order 588 not followed.



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The present case is with a delay of nearly five days, a motivated one. The pendency of the cases between them is admitted by P.W.1, the specific case of the petitioner is that the petitioner is a Law College Student, who in the final year of studies is falsely implicated for the reason that pendency of FIR would not allow him to enroll as Advocate, thereby to make the petitioner's life miserable. The petitioner produced the FIR in Crime No.191 of 2020 as well as his College Identity Card to show that he completed Five years LLB Course during the year 2016-2021 in Naya Vidya Parishad. He further submitted that the Trial Court acquitted the petitioner for the offence under Section 294(b) IPC which is the foundation of the case. Since the foundation fact itself disbelieved, consequently the petitioner cannot be convicted for the other offences. The Lower Appellate Court not independently assessed the evidence and materials, but mechanically dismissed the appeal. The petitioner further submits that the above case is out of personal vendetta and if the petitioner is to surrender and seek suspension of sentence, his future would be jeopardized and he will not be permitted to enroll in the Bar Council and practice as Advocate and he is one of the few educated in his family. The petitioner's future will be jeopardized.



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5.The learned Government Advocate [CrI. Side] submits that in this case the petitioner has committed grievous offence, complaint against him is that when the defacto complainant/P.W.1 was sleeping in the open area along with her father as it was a hot day, taking advantage of the same at about 12.00 p.m. the petitioner came there, lifted her saree and also her inner garments and attempted to misbehave, when P.W.1 raised alarm, the petitioner shut her mouth and threatened to kill her. On hearing the alarm, P.W.4, the defacto complainant's father woke up, the petitioner ran away from the scene of occurrence, which was witnessed by the neighbours, P.W.2 and P.W.3. The petitioner to put in place the defacto complainant and to deter her from complaining against the petitioner's family, such attempt was made. On the complaint of P.W.1, P.W.9 registered a case, visited the scene of occurrence, prepared observation mahazar and rough sketch, thereafter P.W.10 took up investigation, examined other witnesses, recorded statements and filed a final report before the Trial Court and all the witnesses supported the case of the prosecution. He further submitted that the Trial Court on the evidence and materials produced rightly convicted the



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petitioner, now the petitioner taking shield as a Law graduate cannot be accepted, the conduct and behaviour of the petitioner does not require any indulgence. Hence, he opposed this petition.

6.Considering the submissions and on perusal of the materials, it is seen that P.W.1/victim, in her evidence admits about the cases pending between her family and the petitioner's family. On perusal of the FIR in Crime No.191 of 2020, it is seen that both cases took place on the same day on 19.06.2020. It is admitted by P.W.1 that there is brewing misunderstanding between both the families, both hail from the same Village with similar social status. The petitioner is a Law graduate who completed his studies, who is about to get enrolled, compelling the petitioner to surrender and to seek bail would affect his career, further the petitioner has made out an arguable case in his favour. Hence, this Court is inclined to suspend the Substantive Sentence of Imprisonment alone till the disposal of the revision petition.

7.Accordingly, the Substantive Sentence of Imprisonment imposed on



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the petitioner is suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Additional Mahila Court, Cuddalore.

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To

- 1.The Sub-Inspector of Police,
Reddichavadi Police Station,
Cuddalore District.
- 2.The Judicial Magistrate,
Additional Mahila Court,
Cuddalore
- 3.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.
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