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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09/09/2022

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THE HONOURABLE MR.JUSTICE G.ILANGO VAN

Cr1.R.C(MD)No.820 of 2022
and
Cr1.MP(MD)No.10203 of 2022

Santhosh Kumar : Petitioner/Appellant/
Accused (Sole)

Vs.

The State represented
The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
(Crime No.187 of 2014) : Respondent/Respondent/
Complainant

Prayer: Criminal Revision has been filed under Sections 397 r/w 401 of Criminal Procedure Code, against the judgment, dated 30/06/2022 made in CA No.89 of 2021 on the file of the learned Mahalir Neethimandram, Fast Track Mahila Court, Thanjavur, confirming the judgment, dated 17/05/2021 passed in CC No.150 of 2014 on the file of the Judicial Magistrate, Thiruvaiyaur, Thanjavur.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.RMS.Sethuraman
Additional Public Prosecutor

**ORDER**

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This Criminal Revision has been preferred against the judgment of the appellate court namely Mahalir Neethimandram, Fast Track Mahila Court, Thanjavur, in CA No.89 of 2021, dated 03/06/2022, confirming the judgment of the trial court namely the Judicial Magistrate, Thiruvaiyaru, in CC No.150 of 2014, dated 17/05/2021.

2.The facts in brief:-

The petitioner was arrayed as sole accused in Crime No.187 of 2014 and he was tried in CC No.150 of 2014 by the Judicial Magistrate, Thiruvaiyaru, Thanjavur. The allegation against the petitioner is that on 28/08/2014 at about 07.00 am, the de-facto complainant went to the house of one Raghupathy for demanding back the loan amount. At that time, the above said Raghupathy was not in the house. So the de-facto complainant enquired the accused. At that time, the accused person abused her in filthy language, pushed her down by holding her hair and caused assault with wooden log on the left thigh region. She was also criminally intimidated.



3.The petitioner was tried for the offences under sections 294(b), 324, 506(ii) IPC and section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002.

4.To prove the charges, on the side of the prosecution, 9 witnesses have been examined and 7 documents were marked. On the side of the accused, no oral or documentary evidence was adduced.

5.At the conclusion of the trial, the trial court found that the offences under section 323 IPC and section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002 were found to be proved. On that ground, he was convicted and sentenced to undergo 3 months rigorous imprisonment for the offence under section 323 IPC and one year rigorous imprisonment, apart from that, Rs. 10,000/- was also imposed as fine for the offence under section 4 of the Tamil Nadu Prohibition of Women Harassment Act, 2002. Challenging the conviction and sentence, he filed an appeal and that was heard by the Mahilar Neethimandram (Fast Track Mahila Court), Thanjavur, in CA No.89 of 2021. The appellate court found that there is no reason to interfere into the order of



the trial court and accordingly, the appeal was dismissed by confirming the conviction and sentence of the trial court. Against the concurrent findings of both the courts below, this criminal revision has been filed.

6. Even though, this revision has been preferred on factual and legal aspects, the learned counsel appearing for the petitioner would submit that the fine amount may be confirmed, but however, the sentence may be modified to the period that was already undergone by the petitioner.

7. It is seen that considering the nature of the injury suffered by the de-facto complainant, as stated above, the revision petitioner was convicted for the offence under section 323 IPC. PW1 is the injured, has stated that she was assaulted with stick on the left thigh region. PW5, the Doctor, who treated PW1 has stated that on examination, he found contusion measuring about 10 x 5 cm on the left thigh region and no other injuries were found. He would further say that the injury sustained by PW1 is simple in nature.



8. So considering the nature of the injury, that has been suffered by PW1, I am of the considered view that the sentence imposed upon the petitioner can be modified.

9. It is seen from the records that the petitioner is in custody for the past 105 days. Taking into account for determining the quantum of sentence and the accused served substantive part of sentence, it is held that the sentence imposed on the petitioner/accused can be reduced the sentence to the period already undergone under both penal provisions.

10. Accordingly, this Criminal Revision is **partly allowed**, by reducing the sentence awarded to the petitioner/accused to the sentence already undergone by him. In respect of fine amount, the findings of the trial court is confirmed. Consequently, connected Miscellaneous Petition is closed.

09.09.2022

Index: Yes/No
Internet: Yes/No

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To,

- 1.The Mahalir Neethimandram,
(Fast Track Mahila Court),
Thanjavur District.
- 2.The Judicial Magistrate,
Thiruvaiyaru,
Thanjavur District.
- 3.The Inspector of Police,
Thiruvaiyaru Police Station,
Thanjavur District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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Order udgment made in
Cr1.R.C (MD) No.820 of 2022

09.09.2022



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