



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

Friday, the Fourteenth day of October Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL MP(MD) No.12278 of 2022

IN

CRL RC(MD) No.991 of 2022

K.SWAMINATHAN

... PETITIONER/PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NAGERCOIL,
KANYAKUMARI DISTRICT.
(IN CRIME NO.8/2004).

... RESPONDENT/COMPLAINANT

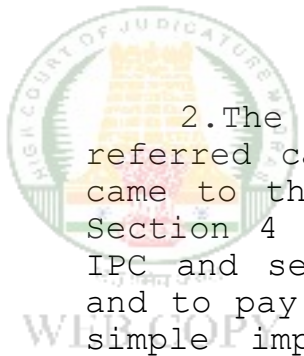
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence passed by the learned Judicial Magistrate No.III, Nagercoil in C.C.No.124 of 2004 dated 12.09.2006 confirmed by the learned Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil in Crl.A.No.173/2006 dated 12/08/2022, pending disposal of the main Criminal Revision petition.

Prayer in CRL RC(MD)No.991 of 2022 :

To call for the records pertaining to the conviction judgment passed by the learned Judicial Magistrate No.III, Nagercoil in C.C.No.124 of 2004 dated 12.09.2006 confirmed by the learned Sessions Fast Track Mahila Court, Kanyakumari at Nagercoil in Crl.A.No.173 of 2006 dated 12.08.2022 and set aside the same.

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.ARAVINTHAN G, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Revision Case, 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 12.08.2022, passed in Crl.A.No.173 of 2006, on the file of the Sessions Fast Track Mahila Court, Kanyakumari, at Nagercoil, confirming the conviction and sentence in C.C.No.124 of 2004, dated 12.09.2006 on the file of the Judicial Magistrate No.III, Nagercoil.



2.The petitioner is arrayed as third accused in the referred case. After full-fledged trial, the learned trial Judge came to the conclusion that the petitioner was found guilty under Section 4 of Dowry Prohibition Act and Sections 498(A) and 406 of IPC and sentenced to undergo Rigorous imprisonment for six months and to pay a fine of Rs.5,000/-, in default to undergo three months simple imprisonment for the offence under Section 4 of Dowry Prohibition Act and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.5,000/-, in default, to undergo three months simple imprisonment for the offence under Section 498(A) of IPC and sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment for the offence under Section 406 IPC. The sentences were ordered run concurrently and out of the fine amount of Rs.15,000/-, a sum of Rs.10,000/- was ordered to be paid to the defacto complainant. Challenging the above said conviction and sentence, the petitioner has filed Crl.A.No.173 of 2006 and the same was dismissed by the Sessions Fast Track Mahila Court, Kanyakumari, at Nagercoil, on 12.08.2022. Aggrieved over the same, the petitioner has filed the criminal revision case along with this instant miscellaneous petition seeking suspension of sentence.

3.Heard Mr.G.Aravinthan, learned counsel for the petitioner and Mr.S.Manikandan, Government Advocate (Crl.side) appearing for the respondent/State.

4.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

5.It is submitted by the learned Government Advocate (crl.side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

6.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

7.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision case and further the criminal revision case is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.



8. Accordingly, the criminal miscellaneous petition is allowed and the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Nagercoil.

(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 learned Magistrate concerned once in a month i.e. on first working day of every Month at 10.30 a.m, until further orders.

sd/-

14/10/2022

/ TRUE COPY /

17/10/2022

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

TO

1 THE SESSIONS JUDGE, SESSIONS FAST TRACK MAHILA COURT,
KANYAKUMARI AT NAGERCOIL.

2 THE JUDICIAL MAGISTRATE NO.III, NAGERCOIL.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.

4 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, NAGERCOIL,
KANYAKUMARI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

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

+1 CC to M/s.G.ARAVINTHAN, Advocate (SR-11456[I] dated 17/10/2022)

ORDER IN
CRL MP(MD) No.12278 of 2022
IN
CRL RC(MD) No.991 of 2022
Date :14/10/2022

cp
RS/SBN/SAR. (17.10.2022) 3P-8C

<https://www.mhc.tn.gov.in/judis>