



Crl.M.P.No.5614 of 2023 in Crl.RC.No.717 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 21.04.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE V.SIVAGNANAM**

**Crl.M.P.No.5614 of 2023**

**in**

**Crl.RC.No.717 of 2023**

Selvakumar

... Petitioner

/vs/

The State, represented  
by its Station House Officer,  
All Women Police Station,  
Virudhachalam  
(Cr.No.06 of 2011)

.. Respondent

**Prayer :** Criminal Miscellaneous Petition filed under section 397(1) of Cr.P.C., to suspend the sentence of punishment passed by the Judicial Magistrate II, Virudhachalam in C.C.No.45 of 2012 dated 06.04.2022 against the petitioner/accused and the same was confirmed in Criminal Appeal in C.A.No.13 of 2022, dated 10.02.2023 on the file of the III Additional District and Sessions Judge, Virudhachalam till the disposal of the above Criminal Revision Petition.

|                |     |                               |
|----------------|-----|-------------------------------|
| For Petitioner | ... | Mr. P. Bakiyaraj              |
| For Respondent | ... | Mr.R.Vinothraja GA (crl.side) |

**ORDER**

This Criminal Miscellaneous Petition has been preferred seeking to suspend the sentence imposed on the petitioner by the Judicial Magistrate II,



Virudhachalam in C.C.No.45 of 2012 by judgment dated 06.04.2022, which was confirmed by the III Additional District and Sessions Judge, Virudhachalam made in C.A.No.13 of 2022, dated 10.02.2023 and enlarge him on bail pending disposal of the above criminal revision petition.

2. The trial court, by its judgment dated 06.04.2022 in C.C.No.45 of 2012, convicted and sentenced the petitioner/accused as follows;

| <b><i>Petitioner's Rank</i></b> | <b><i>Provision under which convicted</i></b> | <b><i>Sentence</i></b>                                                                                              |
|---------------------------------|-----------------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| Sole accused                    | U/s.494 IPC                                   | To undergo RI for 3 years and a fine of Rs.5000/-, in default in payment of fine, to undergo one month SI           |
|                                 | U/s.498A IPC                                  | To under RI for 2 years and to pay a fine of Rs.5000/-, in default in payment of fine, to undergo SI for one month. |
|                                 |                                               | Total fine amount Rs.10,000/-                                                                                       |

The sentence of imprisonments were ordered to run consecutively.

He was acquitted from the charge under section 506(2) IPC.

3. Aggrieved over the judgment of conviction and sentence imposed on the petitioner by the trial court, he preferred C.A.No.13 of 2022 before the III Additional District and Sessions Judge, Virudhachalam who, by his judgment dated 10.02.2023, confirmed the conviction and sentence imposed by the trial court. Challenging the above conviction and sentence, the



petitioner has filed the present criminal revision case, along with the instant miscellaneous petition, seeking suspension of sentence and bail.

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4. The learned counsel for the petitioner submitted that the judgment of the trial court and the lower appellate court is contrary to law, weight of evidence and probabilities of the case. The fine amount imposed on him was paid. PW2 and PW3 are family friends of PW1 and PW4 is the sister of PW1, thus, they are interested hearsay witnesses. The trial court believing the testimony of the abovesaid witnesses, found the petitioner guilty and convicted and sentenced him as stated above. Further, PW5 turned as a hostile witness and does not help the prosecution case and PW6, PW7 and PW8 are official witnesses who did not actually witness the occurrence. Therefore, he submitted that there are arguable points in this Revision and the petitioner has every chance to succeed in this Criminal Revision Case. Thus, he prayed for suspension of sentence till the disposal of this Criminal Revision Petition.

5. The learned Govt. Advocate (crl.side) submitted that the petitioner married PW1 concealing his first marriage and also criminally intimidated her and caused cruelty and mental agony to PW1. Thus he objected for



suspending the sentence imposed on him.

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6. Heard both sides and perused the impugned judgments and materials available on record.

7. The petitioner has raised substantial grounds in the Revision which require detailed appraisal. Further, the Revision 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.

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

(i) The petitioner shall surrender before the Judicial Magistrate II, Virudhachalam within two weeks from the date of receipt of a copy of this order and on such surrender, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/-(Rupees ten thousand only) along with two sureties, each for a like sum, to the satisfaction of the above said court.

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety



bonds and the abovesaid Court may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity; and;

(iii) The petitioner shall appear before the trial Court as and when required.

21.04.2023

msr

To

- 1.The Judicial Magistrate II, Virudhachalam
2. The III Additional District and Sessions Judge, Virudhachalam.
3. The Station House Officer,  
All Women Police Station,  
Virudhachlam.
4. The Public Prosecutor, High Court, Madras.



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**V.SIVAGNANAM, J.**

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