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CRL. M.P.. Nos.3067-3069/2024

CRL. M.P. NOS. 3067 & 3069 OF 2024

IN

CRL. R.C. NO. 330 OF 2024

Reserved on	Pronounced on
17.04.2024	23.04.2024

M.DHANDAPANI, J.

Assailing the order of the Principal District & Sessions Court, Villupuram, in C.A. No.59/2023 dated 12.02.2024 in and by which the conviction and sentence imposed on the petitioner in C.C. No.231/2021 by the Chief Judicial Magistrate, Villupuram, dated 16.06.2023 for the offences u/s 354A (2) IPC and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2020 and 341/ r/w 109 IPC were confirmed, while the petitioner has preferred the revision against the said order, the present miscellaneous petitions have been filed seeking suspension of sentence and exemption from surrendering.

2. The petitioner stood convicted for the following offences and stood sentenced as under :-

1	Section 354A (2) IPC	Rigorous imprisonment for three years together with fine of Rs.10000/-, in default to undergo simple
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		imprisonment for six months
2	Section 4 of Tamil Nadu Prohibition of Harassment of Women Act	Rigorous imprisonment for three years together with fine of Rs.10000/-, in default to undergo simple imprisonment for six months
3	Section 341 r/w 109 IPC	To pay a fine of Rs.500/-, in default to undergo simple imprisonment for 10 days

The sentences imposed on the accused/revision petitioner were directed to run concurrently.

3. The facts in brief leading to the filing of the revision as also the plea for suspension of sentence are as under :-

On 21.02.2021 while the victim, who was Superintendent of Police, Perambalur District, was on official duty, A-1, who was a Special Director of Police, Law & Order, instructed P.W.1 to accompany him after completion of the program at Light-House and after attending the next program, he will drop her at Perambalur while proceeding to Ulundurpet. As A-1 was in the practice of taking the Superintendent of Police of the enroute districts in his official car and dropping them at the borders of their district while having discussion in the car, P.W.1 instructed her PSO to follow the car of A-1 and, thereafter, boarded the



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car of A-1 bearing Regn. No.TN-01-G-8705 at about 18.30 hours. It is the case of the prosecution that A-1 deviated from the normal route and took P.W.1 to various places enroute to Ulundurpet. In the course of the said travel, A-1 caught hold of the right hand of P.W.1 and with a view to outrage her modesty and with sexual intent, acted in an indecent manner, thereby causing apprehension and fear in the mind of P.W.1. It is the further case of the prosecution that with regard to the said incident, when P.W.1 tried to lodge a report with the higher officials, A-2, the then Superintendent of Police, Chengalpet District, wrongfully restrained her at Paranur Toll Plaza and on the instruction of A-1 criminally intimidated P.W.1 and forced her to speak with A-1.

4. It is the further case of the prosecution, that a case was registered by CB-CID, Villupuram in Crime No.1/2021 u/s 354A (2), 341 and 506 (i) r/w 109 IPC, Section 4 of Tamil Nadu Prohibition of Harassment of Women Act against A-1 and A-2 on 27.2.2021 and the matter was taken up for investigation by the Addl. Superintendent of Police, CB-CID. Upon completion of investigation, charge sheet was filed against the accused before the Chief Judicial Magistrate Court, Villupuram and the same was taken on file in C.C. No.231/2021 leading to



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the conviction and sentence passed by the trial court as aforesaid, which has been confirmed by the lower appellate court.

5. Learned senior counsel appearing for the revision petitioner/A-1 submits that the prosecution case bristles with contradictions and lack of evidence and the trial court, without properly appreciating the same, has convicted and sentenced the revision petitioner, which is wholly perverse. It is the further submission of the learned senior counsel that except for the evidence of P.W.1, there is no evidence, either independent or corroborative, which points to the guilt of the revision petitioner and the said aspect has not been properly appreciated by the court below.

6. It is the further submission of the learned senior counsel that in the absence of any evidence pointing to the guilt of the revision petitioner, the essential ingredients to make out the offences are wholly lacking, which have not been properly considered both by the courts below. It is the further submission that the investigating agency did not properly investigate the issue and even the evidence of the witness, P.W.10, the driver of the vehicle, has not



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corroborated the evidence of P.w.1. It is the further submission of the learned senior counsel that the scientific evidences have not been properly appreciated by the courts below and in fact, many of the evidences were not placed at the time of trial. It is the further submission of the learned senior counsel that the weekly dairies and the Daily Situation Report of P.W.1, for the period 21.02.2021 and 22.01.2021, marked as Ex.D-1 do not mention about the alleged incidents and the non-appreciation of the same by the courts below hits at the root of the finding rendered by the courts.

7. In fine, it is the submission of the learned senior counsel that the judgments of the courts below bristles with infirmities and contradictions and the materials placed before the courts have not been properly appreciated, which otherwise would have enured to the benefit of the revision petitioner. Learned senior counsel submits that there is a good case for the revision petitioner to prove his innocence and the length of service put in by the revision petitioner, which is without blemish, inclusive of the President's medal received by the revision petitioner, would establish that only to cause harm to the revision petitioner's reputation, the case has been foisted on him and if



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suspension of sentence is not granted, grave harm and prejudice would be caused to the revision petitioner and, therefore, this Court may consider suspending the sentence imposed on the petitioner pending consideration of the revision petition and also exempt the petitioner from surrendering before the court below.

8. Per contra, learned Addl. Public Prosecutor appearing for the respondents submits that the victim, P.W.1 has clearly deposed the ignominy meted out to her by the revision petitioner. Though there are some contradictions in the evidence tendered by the witnesses, however, the said contradictions are not material enough so as to doubt the prosecution version. It is the further submission of the learned Addl. Public Prosecutor that the revision petitioner holding the post of Director General of Police, the said post would have registered well in the minds of the witnesses and keeping the same, there would be definitely certain infirmities and inconsistencies in the evidence and so long as the said evidence do not materially affect the prosecution case, the evidences cannot be brushed aside. The courts below, rightly appreciating the evidences, have arrived at the finding of guilt on the revision petitioner, which is



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based on cogent and convincing reasoning. It is the further submission of the learned Addl. Public Prosecutor that the revision petitioner could very well surrender before the court below and seek for bail, which could be granted and seeking suspension at the hands of this Court even at the threshold is not proper and this Court may not consider the said prayer at this point of time.

9. This Court gave its careful consideration to the submissions advanced by the learned counsel on either side and perused the materials available on record.

10. In cases involving outraging the modesty of women or indecent behaviour with women, the courts should be very circumspect and slow while granting suspension of sentence to the accused, who have been held to be guilty through concurrent judgments of the courts below. The offence against women, girls and girl child is on the steep ascendancy and this is causing a grave concern for a peaceful life in the society.



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11. In the present case on hand, it involves a person, viz., the revision petitioner, who is holding a very high office in the police force, in fact, holding the pinnacle of the post in the police force, viz., the post of Director General of Police (Law & Order). The police force is a disciplined force in which the persons holding even the base posts are required to exhibit the highest amount of discipline and integrity and they should project and conduct themselves as role models for the citizens of the country.

12. In the case on hand, the revision petitioner, in the cadre of Director General of Police, is alleged to have conducted himself in an indecent manner with his subordinate, a female employee. When general public conduct themselves in an indecent manner with the women folk, it is the police authorities, who come to the fore to take action, thereby, the apprehension and fear of the women in such situations would be put at rest through the act of the police authorities. The police authorities are looked up in high esteem with regard to the discharge of their duties without any fear or favour.



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13. However, in the present case, the revision petitioner, being higher in the hierarchy in the police department is alleged to have conducted himself in an indecent manner with his subordinate, including the subordinate being intimidated from not filing the complaint against him. The allegations are of such a serious nature and the offence alleged against the revision petitioner being of a grave nature, outraging the modesty of the women folk, definitely it requires to be handled not unlike other routine cases.

14. Be that as it may. Coming to the case on hand, the gist of the contention is that the revision petition is not likely to be taken up at an early date and, therefore, the inconsistencies, contradictions and infirmities in the evidence pointed out by the learned senior counsel appearing for the petitioner should prevail upon this court to suspend the sentence imposed on the petitioner pending consideration of the revision. When this Court weighs the said evidence, which is alleged to be inconsistent, but the inconsistencies, infirmities and contradictions, it is to be pointed out that the said infirmities should affect the substratum of the case.



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15. True the said inconsistencies and contradictions would have a much higher value when the revision is taken up for consideration, but definitely at this point of time, when this Court is considering the suspension of sentence, definitely the said contradictions pointed out on behalf of the petitioner are not of such a nature warranting an affirmative result at the hands of this Court.

16. Further, the main ground of attack on the appreciation of the case by the courts below rests on the evidence of P.W.1, which, according to the learned senior counsel for the petitioner, does not have any corroboration. In cases of this nature, the courts are bound to weigh the evidence of the victim to arrive at a finding as to whether the said evidence is believable or not. When the courts below have concurrently held the said evidence to be believable and trustworthy, sitting in revision, and considering the petition for suspension of sentence, it would not be justifiable for this Court to look into the whole of the evidence as the manner in which the appreciation has taken place requires to be looked into only while hearing the main revision. All this Court, for considering the suspension of sentence, has to find out is whether the evidence adduced is so very unreliable, which makes out a *prima facie* case which alone would give the



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benefit to the accused to seek for suspension of sentence. However, the evidence of P.W.1 coupled with the other materials do not in any way materially affect the substratum of the case and, therefore, it would not be in the interest of justice if this Court grants suspension of sentence, more so considering the , fact that the revision petitioner is not a novice and in fact the revision petitioner was holding the post of Director General of Police and a person of the said stature, coming from a disciplined force, ought has to conduct himself in a proper manner, but the action of the revision petitioner has degraded the morale of the police force. The contradictions pointed out on behalf of the petitioner are not fit enough to consider the suspension of sentence, but which could be weighed only at the time of hearing the revision.

17. Therefore, this Court is not inclined to grant suspension of sentence as sought for by the petitioner and, accordingly, the petition for suspension of sentence is dismissed. Consequent upon the dismissal of the aforesaid petition, the petition to exempt the petitioner from surrendering before the trial court is also dismissed.



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23.04.2024

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To

1. The Chief Judicial Magistrate
Villupuram.
2. The Principal District Judge
Villupuram.
3. The Public Prosecutor
High Court, Madras.



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