



WEB COPY



Crl.M.P.No.5114 of 2024 in Crl.R.C.No.552 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.M.P.No.5114 of 2024
in Crl.R.C.No.552 of 2024

Marimuthu,
S/o.Devadas

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Sethiyathope,
Cuddalore District.
(Crime No.9 of 2014)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Sections 389(1) the Code of Criminal Procedure, to suspend the sentence passed by the District Munsif cum Judicial Magistrate Court at Kattumannarkoil Cuddalore District on 08.02.2023 in C.C.No.12 of 2015 as confirmed by 2nd Additional District and Sessions Court, Chidambaram in C.A.No.19 of 2023 by judgment dated 14.09.2023 and enlarge the petitioner on bail, pending of this criminal revision petition.

For Petitioner : Mr.M.I.Javid Akbar
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

The petitioner was convicted by the learned District Munsif-cum-Judicial Magistrate, Kattumannarkoil (trial Court) in C.C.No.12 of 2015 *vide* judgment, dated 08.02.2023. Challenging the same, the preferred an appeal



before the learned II Additional District and Sessions Judge, Chidambaram in Crl.A.No.19 of 2023 (lower appellate Court) and the same was dismissed *vide* judgment, dated 14.09.2023. Challenging the same, the present criminal revision case and the suspension of sentence.

2.The conviction and sentence of the trial Court is as follows:

- For offence under Section 498(A) of IPC, the petitioner/A3 and A1 were convicted and sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.5,000/- each, in default to undergo one week Simple Imprisonment.
- For offence under Section 6(2) of the Dowry Prohibition Act, A1 was convicted and sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo one week Simple Imprisonment.

3.The learned counsel for the petitioner submitted that the defacto complainant/PW1 is the wife of A1 and the petitioner/A3 is the sister's son of A1 and A2 is the mother of A1, who died during trial, charges against her abated. The case projected is that on 02.12.2014, the petitioner along with A1 and A2 had gone to the house of defacto complainant, abused and threatened her. On the complaint (Ex.P1) of PW1, FIR (Ex.P5) in Crime No.9 of 2014 registered for offence under Sections 498(A), 294(b), 352, 506(i) of IPC and



Section 6(2) of Dowry Prohibition Act against her husband/A1, mother-in-law/A2 and the petitioner/A3. The case projected against the petitioner is that the petitioner subjected the defacto complainant to cruelty. On 25.04.2014, the defacto complainant lodged a complaint (Ex.P1) against her husband/A1 and C.S.R.No.125 of 2014 assigned. Thereafter, compromise was held between A1 and the defacto complainant. A1 agreed to pay Rs.1,25,000/- to the defacto complainant, but he failed to do so. On questioning the same, the occurrence dated 02.12.2014 said to have taken place. In this case, PW1 is the defacto complainant and other witnesses are relatives except the official witnesses. The overtact of the petitioner not clearly stated except he is the sister's son of A1, hence, the petitioner has nothing to do with the case and he not at all involved in the matrimonial life of A1 and the defacto complainant. He further submitted that the petitioner is in Central Prison, Cuddalore from 23.01.2024 after dismissal of the bail by the lower appellate Court, hence, he prayed for suspension of sentence.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that in this case, there are totally nine witnesses (PW1 to PW9) and seven documents (Exs.P1 to P7). PW1 is the defacto complainant,



who lodged the complaint (Ex.P1). PW2 and PW3 are the eye witnesses.

PW4 and PW5 are the relatives of the defacto complainant who attended the marriage function who stated about the demand of dowry and presentation of jewels and cash to A1. PW6 and PW7 are witnesses for Observation Mahazar (Ex.P4). PW8 is the village head who stated about the defacto complainant was being harassed by A1 and also demand of dowry. PW9 is the Investigating Officer who registered FIR (Ex.P5), prepared Observation Mahazar (Ex.P4), Rough Sketch (Ex.P6), recorded statement of witnesses, collected documents and filed charge sheet before the trial Court. The trial Court on the evidence and materials available rightly convicted the petitioner/A3 and A1 and the lower appellate Court on independent assessment of evidence and materials, confirmed the trial Court judgment. Hence, he prays for dismissal of suspension of sentence.

5.Considering the submissions and on perusal of the materials, it is seen that the petitioner is the son of A1's sister who said to have present along with the other accused at the time of abuse and assault. In this case, there is no specific overtact against the petitioner. It is a matrimonial dispute primarily between A1 and defacto complainant/PW1. Further, the evidence of the defacto complainant/PW1 is contradictory to the other witnesses who stated



about the similar facts as of PW2 and PW3. It is also seen that the sentence of the trial Court against the petitioner is only a year and the petitioner is in confinement for the past two months i.e., from 23.01.2024.

6.Considering the period of incarceration and also finding that there is no specific overtact against the petitioner, this Court is inclined the suspend the sentence till the disposal of the criminal revision case.

7.Accordingly, the Substantive Sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the revision and he 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 trial Court.

8.Further, the petitioner shall appear before the Trial Court on the first working day of once in three month at 10.30 a.m. until the disposal of the criminal revision and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the



Crl.M.P.No.5114 of 2024 in Crl.R.C.No.552 of 2024

date of his absence as directed by the Trial Court.

WEB COPY

9. Accordingly, this Miscellaneous Petition is ordered.

25.03.2024
(¹/₂)

Index: Yes/No

Internet: Yes

vv2

To

1. The II Additional District and Sessions Judge,
Cuddalore.
2. The District Munsif cum Judicial Magistrate,
Kattumannarkoil.
3. The Inspector of Police,
All Women Police Station,
Sethiyathope,
Cuddalore District.
4. The Central Prison,
Cuddalore.
5. The Public Prosecutor,
High Court, Madras.



WEB COPY



CrI.M.P.No.5114 of 2024 in CrI.R.C.No.552 of 2024

M.NIRMAL KUMAR, J.

vv2

CrI.M.P.No.5114 of 2024 in
CrI.R.C.No.552 of 2024

25.03.2024
(¹/₂)