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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.M.P.Nos.5311 and 5312 of 2024

in

Crl.RC.No.573 of 2024

Kesavan
S/o.Ramasamy

... Petitioner
in both petitions

-Vs-

The State,
Represented by Sub Inspector of Police,
Mangalam Police Station,
Tiruvannamalai District.
(Crime No.701 of 2018)

... Respondent
in both petitions

PRAYER in Crl.M.P.No.5311 of 2024: Criminal Miscellaneous Petition filed under Section 389 of the Criminal Procedure Code, to suspend the sentence imposed on the petitioner dated 27.02.2024 made in Crl.A.No.11 of 2021 by the learned Principal Sessions Judge, Tiruvannamalai, confirming the conviction imposed in the judgment dated 29.01.2021 made in C.C.No.231 of 2019 on the file of the Additional Mahila Court (Judicial Magistrate Level), Tiruvannamalai pending



disposal of the above criminal revision and enlarge the petitioner on bail.

PRAYER in Crl.M.P.No.5312 of 2024: Criminal Miscellaneous Petition filed under Section 482 of the Criminal Procedure Code, to issue a direction to dispense with the petitioner from surrendering in Crl.A.No.11 of 2021 on the file of the Principal Sessions Court, Tiruvannamalai, dated 27.02.2024, confirming the order passed in C.C.No.231 of 2019 on the file of the Additional Mahila Court (Judicial Magistrate Level), Tiruvannamalai, dated 29.01.2021 pending disposal of the above criminal revision and enlarge the petitioner on bail.

For petitioner : Mr.D.Chandrakumar
in both M.Ps

For Respondent : Mr.A.Gopinath
in both M.Ps Government Advocate (Crl.Side)

C O M M O N O R D E R

Crl.M.P.No.5311 of 2024 has been filed to suspend the sentence imposed on the petitioner / appellant in Crl.A.No.11 of 2021 on the file of the Principal Sessions Court, Tiruvannamalai, dated 27.02.2024, confirming the order passed in C.C.No.231 of 2019 by the learned Additional Mahila Judge (Judicial Magistrate Level), Tiruvannamalai, dated 29.01.2021 pending disposal of the above criminal revision petition



and enlarge the petitioner on bail.

2. Crl.M.P.No.5312 of 2024 has been filed to dispense with the petitioner from surrendering in Crl.A.No.11 of 2021 on the file of the Principal Sessions Court, Tiruvannamalai, dated 27.02.2024, confirming the order passed in C.C.No.231 of 2019 by the learned Additional Mahila Judge (Judicial Magistrate Level), Tiruvannamalai, dated 29.01.2021 pending disposal of the above criminal revision petition and enlarge the petitioner on bail.

3. The revision petitioner was convicted for the offence under Section 354(A)(1)(II) of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1988. In respect of Section 354(A)(1)(II) of IPC, the petitioner was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for three months and in respect of Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1988, the petitioner was sentenced to undergo simple imprisonment for a period of one year and to pay a fine of Rs.10,000/-, in default, to undergo simple



imprisonment for three months, vide judgment dated 29.01.2021 made in C.C.No.231 of 2019, against which appeal was filed in CrI.A.No.11 of 2021 before the learned Principal Sessions Judge, Tiruvannamalai and the same was dismissed vide judgment dated 27.02.2024. Aggrieved by the same, the revision has been filed along with the present petitions.

4. The learned counsel for the petitioner would submit that there are lot of material contradictions in the evidence of the prosecution and the prosecution evidence is also highly unbelievable. It is further submitted that apprehending arrest the present petitions for suspension of sentence and dispensing the petitioner from surrendering before the Court below are filed and the petitioner is not in jail.

5. Heard the learned Government Advocate appearing for the respondent.

6. Having regard to the fact that there are arguable points involved in the revision and further, the revision is not likely to be taken up for final hearing in the near future, I am of the considered opinion that the



revision petitioner is entitled for the relief of suspension of sentence.

7. Accordingly, the substantive sentence of imprisonment alone is suspended on the following conditions:

a) the petitioner shall execute a bond for a sum of Rs.10,000/- to the satisfaction of the Additional Mahila Judge, (Judicial Magistrate Level), Tiruvannamalai, along with two sureties for a like sum;

b) the petitioner shall report before the Court below on the first working day of every month at 10.30 AM, till the disposal of the appeal; and

c) the petitioner is directed to deposit the entire fine amount to the credit of C.C.No.231 of 2019 on the file of the Additional Mahila Judge, (Judicial Magistrate Level), Tiruvannamalai.

8. CrI.M.P.No.5311 of 2024 is ordered accordingly. However, this Court is not inclined to dispense the petitioner from surrendering before the Court below. Hence, CrI.M.P.No.5312 of 2024 is dismissed.

9. It is made clear that, if the petitioner indulges in similar offence



in the future, the suspension of substantive sentence alone granted today will automatically stand dismissed without any further reference to this Court.

30.07.2024
(2/2)

vji

Note: Issue order copy on 31.07.2024



To
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1. The learned Principal Sessions Judge,
Tiruvannamalai.
2. The Additional Mahila Judge,
(Judicial Magistrate Level),
Tiruvannamalai,
3. The Sub Inspector of Police,
Mangalam Police Station,
Tiruvannamalai District.
4. The Public Prosecutor,
High Court of Madras,
Madras.



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M.DHANDAPANI, J.

vji

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in
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**30.07.2024
(2/2)**