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Crl.M.P.Nos.17451 & 17931 of 2024 in Crl.R.C.No.2226 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.Nos.17451 & 17931 of 2024
in Crl.R.C.No.2226 of 2024

L.M.Karthick

... Petitioner
in both Crl.MPs

Vs.

State rep. By
The Inspector of Police,
Cyber Crime Police Station,
Puducherry.
(Crime No.15/2020)

... Respondent
in both Crl.MPs

COMMON PRAYER: Criminal Miscellaneous Petitions filed under Sections 408(1) of BNSS, 2023, to suspend the sentence imposed on the petitioner in Crl.A.No.29 of 2023 dated 17.10.2024 by the II Additional Sessions Judge, Puducherry confirming the judgment passed in C.C.No.45 of 2022 by the learned Chief Judicial Magistrate, Pondicherry dated 31.03.2023 and enlarge the petitioner on bail till the disposal of the revision petition and to exempt the petitioner from surrendering before the Trial Court.

For Petitioner	:	Mr.M.Sivabalan
For Respondent	:	Mr.K.S.Mohandass, Public Prosecutor (Puducherry)



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ORDER

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These Criminal Miscellaneous Petitions have been filed by the petitioner, seeking to suspend the sentence imposed on the petitioner/accused in Crl.A.No.29 of 2023 dated 17.10.2024 by the II Additional Sessions Judge, Puducherry confirming the judgment passed in C.C.No.45 of 2022 by the learned Chief Judicial Magistrate, Pondicherry dated 31.03.2023 and enlarge the petitioner on bail pending disposal of the above revision and to exempt the petitioner from surrendering before the Trial court, pending disposal of the above revision.

2.It is the case of the prosecution that the petitioner and the defacto complainant who are working in a Company at Puducherry belong to two different labour unions; that on 09.08.2020 at about 14.00 hours the petitioner had recorded three Whatsapp audio messages with an intention to damage the reputation of the defacto complainant and his friends by employing abusive words about the defacto complainant, his friends and their respective wives and forward the same to other Whatsapp groups.



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3.The petitioner was convicted by the trial Court and sentenced to undergo two years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo four weeks simple imprisonment for the offence under Section 67 of the Information Technology Act and to undergo three months rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one week simple imprisonment for the offence under Section 294(b) IPC. On appeal, the said conviction and sentence was confirmed by the lower Appellate Court.

4.The learned counsel for the petitioner would submit that the prosecution had not established that the messages were circulated by the petitioner; that through the petitioner was charged for the offence under Section 509 IPC, he was acquitted for the said offence and the petitioner was convicted for the offence under Sections 294(b) IPC and Section 67 of the Information Technology Act. He further submitted that the allegation against the petitioner even if accepted to be true, does not constitute those offences as there is nothing in the prosecution case which states that the



messages were lascivious or appeals to the prurient interest or deprave or for intended to deprave or corrupt the persons who are likely to hear the messages and hence, prayed for suspension of sentence.

5.Heard the learned Public Prosecutor (Puducherry), who strongly opposed the petition and submitted that the offence committed by the petitioner is serious in nature and he had damaged the reputation of the wives of the defacto complainant and his friends and had circulated amongst his friends and various other groups and hence, no indulgence should be shown.

6.Considering the above submissions made by the learned counsel for the petitioner and considering the fact that the question as to whether the offence under Sections 294(b) IPC and Section 67 of the Information Technology Act has been made out has to be decided in the above revision, this Court is inclined to suspend the sentence and exempt the petitioner from surrender before the Trial Court on the following conditions till the disposal of the criminal revision case.



Crl.M.P.Nos.17451 & 17931 of 2024 in Crl.R.C.No.2226 of 2024

(i)The petitioner 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 learned Judicial Magistrate No.I, Coimbatore;

(ii)The petitioner and 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 and mobile numbers to ensure their identity;

(iii)The petitioner shall appear before the Trial Court on the first working day of every month at 10.30 a.m until further orders and if he is not able to appear before the trial Court on any 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 date of his absence, as directed by the trial Court.

7.In the result, the criminal miscellaneous petitions are ordered.

18.12.2024
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SUNDER MOHAN, J.

cse

- 1.The Inspector of Police,
Cyber Crime Police Station,
Puducherry.
- 2.The II Additional Sessions Judge,
Puducherry.
- 3.The Chief Judicial Magistrate,
Pondicherry
- 4.The Public Prosecutor,
Puducherry.

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