



Crl.M.P(MD)No.8254 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Nineteenth day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

Crl.M.P(MD)No.8254 of 2024

in

Crl.R.C.(MD)No.769 of 2024

SHANMUGAM

... PETITIONER/ APPELLANT/ ACCUSED

Vs

THE INSPECTOR OF POLICE
DEVAKOTTAI TOWN POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO. 264/2016.

... RESPONDENT/RESPONDENT/
COMPLAINANT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed upon the petitioner in Crl.A.No. 41/2023 dated 26.07.2024 on the file of Mahila Fast Track Court, Sivagangai which is confirmed Judgement passed in C.C.No. 95/2017 dated 30.03.2023 on the file of the Judicial Magistrate Devakottai enlarge the petitioner on bail pending disposal of the above Criminal Revision Case.

Prayer in CRL RC(MD). 769/ 2024 :

To call for records in Crl.A.No. 41/2023 dated 26.07.2024 on the file of Mahila Fast Track Court, Sivagangai which is confirmed in Judgement passed in C.C.No. 95/2017 dated 30.03.2023 on the file of the Judicial Magistrate, Devakottai set aside the same and allow this Revision.



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Order: This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.M.SUBASH BABU, Senior Counsel for M/S.SUBASH LAW OFFICE, for the petitioner and of MR.K.SANJAI GANDHI, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-

The above petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned Judicial Magistrate, Devakottai, in C.C.No.95 of 2017, dated 30.03.2023, which was confirmed by the learned Sessions Judge, Fast Track Mahila Court, Sivagangai in C.A.No.41 of 2023, dated 26.07.2024.

2. The case of the prosecution is that on 19.10.2016 at about 23.30 hours, the petitioner/sole accused had abused the defacto complainant in filthy language and tried to misbehave with her. Hence, the defacto complainant lodged a complaint before the respondent police and on that basis, FIR came to be registered in Crime No.264 of 2016.

3. The respondent, after completing the investigation, has filed the final report for the offences under Section 294(b) IPC and Section 4 of TN Prohibition of Harassment of Women Act and the case was taken on file in C.C.No.95 of 2017 and the same was pending on the file of the Judicial Magistrate, Devakottai.

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4. The learned Senior Counsel appearing for the petitioner would submit that the trial Court has convicted the petitioner for the offence under Section 4 of TN Prohibition of Harassment of Women Act and sentenced him to undergo 2 years simple imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo 3 months simple imprisonment.

5. Challenging the above said conviction and sentence, the petitioner has filed an appeal in C.A.No.41 of 2023 on the file of the Fast Track Mahila Court, Sivagangai. The learned Sessions Judge has confirmed the sentence imposed on the petitioner and dismissed the appeal. Being dissatisfied with the said conviction and sentence, the petitioner has preferred the present criminal revision along with the above application for suspension of sentence.

6. When the matter was taken up for hearing earlier, this Court, considering the submission made by the learned Senior Counsel appearing for the petitioner that the petitioner was admitted in Government Rajaji Hospital, Madurai and is taking inpatient treatment, directed the Prison Hospital authorities to submit a report and in pursuance of the same, they have submitted a report stating that the petitioner is a



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known case of type 2 Diabetes Mellitus/Systemic hypertension/coronary artery disease/unstable angina/seizure disorder and he was admitted in Government Rajaji Hospital on 28.07.2024 and coronary angiogram was done as per the expert opinion and that since he developed cardiac symptoms again, he was sent to Government Rajaji Hospital and is taking treatment till now.

7. When the matter is taken up for hearing today, the learned Senior Counsel appearing for the petitioner would submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He would further submit that the petitioner has already paid the fine amount.

8. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.



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10. The learned Senior Counsel appearing for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal revision and further the criminal revision is not likely to be taken up for final hearing in the near future and taking note of the medical condition of the petitioner, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

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

(i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Devakottai;

(ii) 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 to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a month i.e.,

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on the first working day of every English calendar 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 of 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.

sd/-
19/09/2024

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20/09/2024
Sub-Assistant Registrar (AE)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM

TO

1.THE JUDGE, MAHILA FAST TRACK COURT, SIVAGANGAI

2. THE JUDICIAL MAGISTRATE, DEVAKOTTAI

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI.

4.THE INSPECTOR OF POLICE
DEVAKOTTAI TOWN POLICE STATION,
SIVAGANGAI DISTRICT.

5.THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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+1 CC to M/s.M/S.SUBASH LAW OFFICE, Advocate (SR-11447[I] dated 19/09/2024)

ORDER
IN
Crl.M.P(MD)No.8254 of 2024
in
Crl.R.C.(MD)No.769 of 2024
Date :19/09/2024

RK (20/09/2024) 7P / 8C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023