



Crl.M.P.(MD).No.17042 of 2023

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

Tuesday, the Second day of April Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

Crl.M.P.(MD).No.17042 of 2023

in

Crl.A.(MD).No.1065 of 2023

THANGAM

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
KATTANUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.18 OF 2019)

... RESPONDENT/RESPONDENT

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 on the petitioner by the judgment dt. 15.09.2023 in Sessions case No. 138 of 2021 on the Fast Track Mahila court, Virudhunagar at Srivilliputhur and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in Crl.A.(MD).No.1065 of 2023:

To call for the records and set aside the Judgment dated 15.09.2023 made in Sessions Case No.138 of 2021, on the file of the Fast Track Mahila Court, Virudhunagar at Srivilliputhur.

Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.C.SENTHIL MURUGAN, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate(Crl.side) on behalf of the Respondent, the court made the following order:-



Crl.M.P.(MD).No.17042 of 2023

WEB COPY

This Criminal Miscellaneous Petition has been filed by the petitioner to suspend the following sentence of imprisonment imposed against him in S.C.No.138 of 2021 on the file of the Fast Track Mahila Court, Virudhunagar at Srivilliputtur by the judgment dated 15.09.2023, impugned in the above appeal in Crl.A.(MD). No.1065 of 2023:

Sl.No.	Offence under Section	Sentence of imprisonment	Fine	Default sentence
1	294(b) of IPC	Three months of imprisonment	-	-
2	307 of IPC	Ten years of rigorous imprisonment	Rs.10,000/ -	One year of rigorous imprisonment
3	4 of Tamil Nadu Prohibition of Harassment of Women Act	Three years of rigorous imprisonment	Rs.10,000/ -	Six months of rigorous imprisonment



Crl.M.P.(MD).No.17042 of 2023

WEB COPY

2.The case of the prosecution is that the petitioner and P.W.1 are the neighbours. P.W.1's wife is Panjavaranam/P.W.3. P.W.1's wife Panjavaranam and the petitioner's wife Venkateswari are close friends. On the said acquittance, P.W.3 used to visit the petitioner's house and met his wife frequently. As the petitioner did not go to work properly, P.W.3 advised the wife of the petitioner and requested the petitioner to do the work continuously. Therefore, the petitioner instructed his wife to stop friendship with P.W.1's wife. On 01.08.2019 at about 09.45 a.m., the P.W.3 visited the house of the petitioner and had interrogation with his wife. At that time, the petitioner infuriated and made wordy quarrel and chased P.W.1's wife and attacked her with Aruval. In the result, she sustained injuries and hence, the respondent Police registered a case in Crime No.18 of 2019 for the offences under Sections 294(b) and 307 of IPC. After investigation, the final report was filed under Sections 294(b) and 307 of IPC and Section 4 of the Tamil Nadu Prohibition of the Harassment of Women Act. The said final report was taken on file by the Fast Track Mahila Court, Virudhunagar District, Srivilliputhur in S.C.No.138 of 2021. The learned trial Judge, after completed all the legal formalities conducted the trial.

3.During the trial, the prosecution has examined 11 witnesses as P.W.1 to P.W.11 and exhibited 9 documents as Ex.P.1 to Ex.P.9 and marked one Material

<https://www.mhc.tn.gov.in/judis>



Crl.M.P.(MD).No.17042 of 2023

Object as M.O.1. However, neither a witness was examined nor a document was exhibited on the side of the accused.

4.The learned trial Judge, after considering the evidence, documents and material objects, convicted the petitioner/appellant and sentenced to undergo 3 months simple imprisonment for the offence under Section 294(b) of IPC and to undergo 10 years Rigorous Imprisonment for the offence under Section 307 of IPC and to pay a sum of Rs.10,000/- as fine, in default to undergo 1 year Rigorous Imprisonment and to undergo 3 years Rigorous Imprisonment for the offence under Section 4 of TNPWH and to pay a sum of Rs.10,000/- as fine, in default to undergo 6 months Rigorous Imprisonment. Challenging the same, the petitioner filed the above appeal. Even though judgment was dated 15.09.2023, the appeal was filed belatedly and got numbered along with the suspension of sentence.

5.It is the case of the petitioner that the FIR was registered with delay and the investigating agency has not examined the wife of the petitioner in whose presence, the occurrence was said to have happened. In view of that, the petitioner has prima facie case of succeeding in the appeal. Hence, he seeks for suspension of sentence.



Crl.M.P.(MD).No.17042 of 2023

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6.The learned Government Advocate (Crl. Side) on the other hand submitted that the manner of the occurrence that took place is to be considered in this case. The petitioner chased the P.W.3 and abused her and attacked with Aruval. In the result, she sustained injuries. Considering the above, he seeks for dismissal of the suspension of sentence petition.

7.In reply to the said argument, the learner Counsel for the petitioner submitted that the petitioner was confined in Central Prison, Madurai and he is inside the jail from 24.03.2023 and hence, he seeks for the suspension of sentence.

8.The learner Government Advocate (Crl. Side) submitted that there was no previous antecedent against the petitioner.

9.This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record and also the impugned judgment.



Crl.M.P.(MD).No.17042 of 2023

WEB COPY

10. From the records, it is clear that P.W.3 went to the house of the appellant and there was a wordy quarrel, and the petitioner said to have assaulted P.W.3 and caused injuries. Further, he was inside the jail from 24.03.2023. Apart from that, as argued by the learned counsel for the petitioner there was a delay in registering the case and also non-examination of the wife of the petitioner is material circumstance to presume existence of prima facie case and also there are arguable points in the above appeal and hence, considering the nature of the accusation and there is no previous antecedent against the petitioner and his incarceration from 24.03.2023, this Court inclines to suspend the sentence of the imprisonment with 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 Fast Track Mahila Court/1st Additional District Judge, Virudhunagar, at Srivilliputhur.

(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



Crl.M.P.(MD).No.17042 of 2023

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(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
02/04/2024

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03/04/2024
Sub-Assistant Registrar (AE)
Madurai Bench of Madras High Court,
Madurai - 625 023.

VSG

TO

- 1.THE 1ST ADDITIONAL DISTRICT JUDGE,
FAST TRACK MAHILA COURT
VIRUDHUNAGAR, AT SRIVILLIPUTHUR.
- 2.THE INSPECTOR OF POLICE
KATTANUR POLICE STATION,
VIRUDHUNAGAR DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

COPY TO

THE SUPERINTENDENT OF PRISON,
CENTRAL PRISON, MADURAI.



Crl.M.P.(MD).No.17042 of 2023

+1 CC to M/s.C.SENTHIL MURUGAN, Advocate (SR-4091[I] dated 02/04/2024)

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ORDER
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Date :02/04/2024

RK (03/04/2024) 8P / 6C

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