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CRL MP No. 9830 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16-05-2025

CORAM

THE HONOURABLE MR JUSTICE M. NIRMAL KUMAR

CRL MP No. 9830 of 2025

IN

CRL RC NO. 593 OF 2025

1. V.Khaleel Ahmed

S/o.Vavarthar Ahamed Basha Sahib

2. Zahinda Bani.V

Appellant(s)

Vs

The State Rep.By. The Inspector Of
Police,
All Women Police Station, Ranipet,
Cr.No.12/2007.

Respondent(s)

Prayer: This Criminal Miscellaneous Petition is filed seeking to suspend the sentence imposed in Crl.A.No.127 of 2022 by an order dated 14.06.2023 by the Hon'ble II Additional District and Sessions Judge at Vellore Ranipet by confirming the judge in CC.No.63 of 2008 order dated 10.10.2022 passed by the Hon'ble District Munsif Cum Judicial Magistrate Court at Arcot and enlarge the petitioners on bail pending disposal of the present Criminal Revision.

For Appellant(s): Mr.A.M.Venkatakrishnan

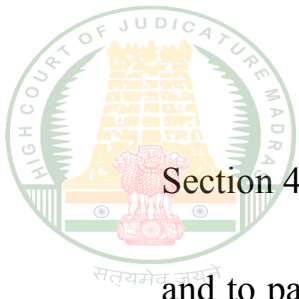
For Respondent(s): Public Prosecutor

**ORDER**

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The first petitioner/accused was convicted by the Trial Court in C.C.No.63 of 2008 by judgment dated 10.10.2022 for offences under Section 498A , 406 and 355of IPC, Section 4 of Dowry Prohibition Act and Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act. The second petitioner/accused was convicted by the Trial Court in C.C.No.63 of 2008 by judgment dated 10.10.2022 for offences under Section 498A , 406 and 355of IPC, Section 4 of Dowry Prohibition Act. Aggrieved by the same, the petitioners have preferred and appeal before the Sessions Judge in Crl.A.No.127/2022. The Sessions Court by judgment dated 14.06.2023 dismissed the appeal, confirming the conviction and sentence of the Trial Court, against which, the petitioners have preferred the present revision, along with this revision, the petitioners have filed Crl.M.P.No.9830/2025, seeking suspension of sentence.

2. The contention of the petitioners is that the first petitioner is the estranged husband of the defacto complainant and the second petitioner is the sister-in-law. In this case, A1 and A2 were convicted for the offences under



Section 498 (A) IPC and sentenced to undergo six months Simple Imprisonment

and to pay a fine of Rs.2000/- each in default, to undergo simple imprisonment

for two weeks; for the offence under Section 406 of IPC, A1 and A2 were

convicted and sentenced to undergo three months Simple Imprisonment and to

pay a fine of Rs.500/- each, in default, to undergo Simple Imprisonment for a

period of two weeks, for the offence under Section 355 of IPC, A1 and A2 were

convicted and sentenced to undergo three months Simple Imprisonment and to

pay a fine of Rs.500 each, in default, to undergo Simple Imprisonment for two

weeks, for offence under Section 4 of Dowry Prohibition Act, A1 and A2 were

convicted and sentenced to undergo Simple imprisonment of 6 months and to pay

a fine of Rs.1000/- each ,in default, to undergo Simple Imprisonment two

weeks; for the offence under Section 4 of Tamilnadu Prohibition of Harassment

of Woman Act, A1 was convicted and sentenced to undergo Simple

Imprisonment of 6 months and to pay a fine of Rs.2,000/- in default to undergo

Simple Imprisonment for 2 weeks. The Trial Court ordered that the sentences

shall run concurrently. The conviction confirmed by the Lower Appellate Court.



3. During the trial, PW.1 to PW.9 were examined and Ex.P1 to P8 were

4. The case of the prosecution is that the first petitioner had married the defacto complainant on 12.06.2005. The defacto complainant is a handicapped person. After marriage, the first petitioner and the defacto complainant lived happily and out of the wedlock, she also given birth to a child. The second petitioner who is the sister of A1, living with the first petitioner as joint family instigated her brother A1 to demand more dowry from the defacto complainant's father citing defacto complainant's disability. Further, the second petitioner ill-treated and assaulted the defacto complainant and forced the father of the defacto complainant to register a house, in the name of first petitioner. The first and second petitioners had taken away 40 sovereigns of gold jewels of defacto complainant. On 26.10.2007, the petitioners called the father of the defacto complainant to their house and threatened him to register the property. Since, the father of the defacto complainant refused to register the property, he was pushed down and slapped with slippers. When the defacto complainant



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intervened, she was also pushed down and assaulted with broomstick. Both the defacto complainant and her father was mercilessly beaten and the child was also forcibly taken away from the defacto complainant and both were chased out. The defacto complainant is father went to the Government hospital and took treatment and thereafter lodged a complaint before the respondent police where CSIR.No.278/2007 was assigned and thereafter the baby was also retrieved from the petitioners and handed over to the defacto complainant and the respondent police registered a case in Crime No.12/2007 and on completion of investigation, filed charge sheet before the Trial Court and the Trial Court after examination of witnesses and materials had convicted the petitioners as stated above.

5. The contention of the petitioners is that the defacto complainant admits that she had lodged a complaint to Panner Selvam of Arcot Town Police Station, but the said Panner Selvam had not been examined as witness. What was the complaint given to Arcot Town Police Station and what had happened to the complaint are still in missing/mystery. The Sub Inspector of Police, who had



assigned CSIR.No. 278/2007, what was the enquiry conducted and how it was

disposed, no reason was given. In this case, there had been a delay in registering

the FIR and no reason was given for the delay. P.W.1 to 3 are close relatives and

no independent witness was examined in this case. PW.1 and PW2 given an

exaggerated version as like they were assaulted, pushed down and sustained

injuries. P.W7, the casualty Doctor, who treated PW1 and PW2, confirms that

on 26.10.2007 he had examined and found only a small contusion on left side

forehead of P.W.2 and P.W1 had no visible injuries, but complained of pain in

right cheek and back region. But in the statement, PW1 given an exaggerated

version, as though she was pushed out, hot water poured, but the Doctor report

is otherwise. The defacto complainant had left the matrimonial home and at that

time itself, she had taken away the jewels and her articles, but she projected the

case as though she was forcibly pushed out of the matrimonial home. By giving

a false complaint, the P.W1 and PW2, ensured that the first petitioner was

arrested and insulted. In this case, though jamath was held to reconcile the

matrimonial difference between the first petitioner and the defacto complainant,

the same ended vain. PW9, the Investigating Officer had not conducted proper

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investigation. During cross examination, the petitioners can prove that the matrimonial dispute has been given a criminal colour and exaggerated versions are being given. The trial Court as well as the lower appellate Court, not considering the evidence in proper perspective and prays to set the judgment of the appellate Court confirming the conviction and sentence imposed on the petitioners by the trial Court.

6. The Government Advocate (Crl. Side) submitted that the PW1 is the estranged wife of A1 and the marriage between the A1 and the defacto complainant had taken place on 12.06.2005. During the marriage, 40 sovereigns of gold jewels and cash and other sridhana articles were given. The defacto complainant is a handicapped person. Taking advantage of her defect she was forced to bring additional dowry and the father of PW1 was forced to settle a house property in the name of first petitioner and the same was refused and hence, within two years of marriage, the defacto complainant was chased away from the matrimonial home and assaulted. When PW2, the father of the defacto complainant questioned, he was also assaulted. The assault had taken place on



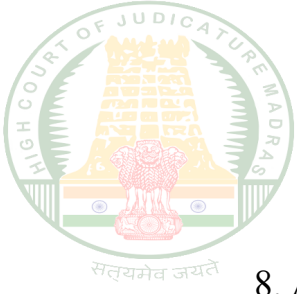
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26.10.2007 and immediately the injured had taken treatment and the Doctor also confirms the same. The petitioners also forcibly taken the infant from the defacto complainant and later at the intervention of police, baby was handed over back to the defacto complainant. Based on the complaint, a case has been registered and investigation was conducted. During investigation, the police prepared, observation magazar, sketch in presence of witnesses and the statement of witness present in the scene of occurrence was recorded. A1 was arrested on 27.11.2007 and A2 had obtained anticipatory bail. Thereafter, on completion of the investigation, charge sheet was filed before the Trial Court. During the trial, PW.1 to PW.9 were examined and Ex.P1 to P8 were marked. On conclusion of the trial, the trial Court convicted the petitioners as stated supra and the lower appellate Court after independently considering the evidence, dismissed the appeal by confirming the conviction and sentence imposed by the Trial Court.

7. Considering the submissions and on perusal of the records, it is seen that the first petitioner and the defacto complainant got married in the year



2005 and out of the wedlock, a baby was born. There has been a matrimonial dispute, which was projected like the petitioners said to have demanded additional dowry and further forced the father of the defacto complainant to register a house property, but the same was refused by PW2, hence both PW1 and PW2 were assaulted by the petitioners. The assault which has been narrated by the PW1 and PW2 seems to be exaggerated and the evidence also contradictory to the medical evidence. Earlier a complaint has been lodged before the Arcot Town Police Station and what had happened to this complaint, is not known and no witness and or materials produced by the respondent in this regard. It is admitted that CSR.No.278 of 2007 was assigned and there was no clarity in what manner it was disposed of. Who had intervened and how the baby was retrieved from the petitioners and handed over to the P.W1 are not clear. If the child has been taken away by the petitioners and returned to P.W1, then why the arrest on the next day at 04.45 p.m. The above case stems out from the matrimonial dispute. The Trial Court as well as the lower Appellate Court had not considered the above facts. On the above facts, the conviction of the petitioners needs reconsideration.



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8. Accordingly, the substantive sentence of Imprisonment imposed on the petitioners is suspended till the disposal of the revision and they are ordered to be enlarged on bail, on condition that they 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 petitioners shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the Revision and if they are not able to appear before the Trial Court on that day, they shall make arrangement 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 their absence, as directed by the Trial Court.

9. Accordingly, this Criminal Miscellaneous Petition is ordered.

16-05-2025

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1. The State Rep.By. The Inspector Of
Police,

All Women Police Station, Ranipet,
Cr.No.12/2007.

2. The Superintendent,
Central Prison, Vellore.
3. The District Munsiff cum
Judicial Magistrate, Arcot.
4. The Public Prosecutor,
Madras High Court.



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M.NIRMAL KUMAR J.

Jai/gbi

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