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Crl.M.P. No. 1182 & 1185 of 2025
in

Crl.R.C. No. 138 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-01-2025

CORAM

THE HONOURABLE MR, JUSTICE SUNDER MOHAN

Crl.M.P.Nos.1182 & 1185 of 2025

in

Crl.R.C.No.138 of 2025

Ezhumalai

..Petitioner in both
petitions

Vs.

State rep. by
Inspector of Police,
Virinchipuram Police Station,
Vellore District,
Crime No. 11 of 2019.

..Respondent in both
petitions

Prayer in Crl.M.P. No. 1182 of 2025: Petition under Section 438(i) of BNSS, 2023 to suspend the sentence imposed by the learned Judicial Magistrate (Additional Mahila Court), Vellore in C.C. No. 297 of 2020 vide judgment dated 10.05.2024 and modified by the learned Principal Sessions Judge, Vellore, in C.A. No. 32 of 2024 vide judgment dated 29.11.2024 and release the petitioner on bail pending disposal of the revision.



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Prayer in Crl.M.P. No. 1185 of 2025: Petition under Section 528 of BNSS, 2023 to grant exemption of surrender imposed in Crl.A. No. 32 of 2024 by judgment dated 29.11.2024 on the file of the learned Principal Sessions Judge, Vellore and in modifying the conviction and sentence imposed by the learned Judicial Magistrate (Additional Mahila Court), Vellore in C.C. No. 297 of 2020 vide judgment dated 10.05.2024 pending disposal of the criminal revision.

For Petitioner :: Mr.M.R. Thangavel

For Respondent :: Mr.S. Udhayakumar,
Govt. Advocate (Crl.Side)

ORDER

These Criminal Miscellaneous Petitions have been filed seeking to suspend the sentence imposed on the petitioner by the learned Judicial Magistrate (Additional Mahila Court), Vellore in C.C. No. 297 of 2020 vide judgment dated 10.05.2024 and modified by judgment dated 29.11.2024 in C.A. No. 32 of 2024 by the learned Principal Sessions Judge, Vellore 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 respectively.



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2. The case of the prosecution is that the petitioner and the de facto complainant are neighbours; that on 07.01.2019, when the de facto complainant was standing in front of her house, A1 harassed the de facto complainant; gave his mobile number to the de facto complainant asking her to call him at any time for sexual relationship. Hence, a case was registered under Sections 294(b), 323, 506(i), 354(A)(1)(i) of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, 1998. On completion of investigation, the final report was filed and the case was taken up in C.C. No. 297/2020. The Trial Court, vide judgment dated 10.05.2024, while acquitting the petitioner of the offences under Sections 294(b), 323, 506(i) and 4 of Tamil Nadu Prohibition of Women Harassment Act, found him guilty under Section 354(A)(1)(i) and sentenced him to undergo 1 year simple imprisonment together with a fine of Rs.5000/- carrying a default of sentence of one month simple imprisonment. On appeal, the Sessions Court found the petitioner guilty under Section 354 (A)(1)(ii) IPC instead of Section 354 (A)(1)(i) IPC and modified the sentence imposed to six months simple imprisonment together with fine of Rs.5000/- carrying a default sentence of 15 days simple imprisonment besides directing the petitioner to pay compensation of Rs.25,000/- to the de facto complainant/victim.



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3. Learned counsel for the petitioner would submit that the Trial Court had disbelieved the prosecution case with regard to the offence under Sections 294(b), 325 and 506(i) IPC and the petitioner was acquitted of the said charges; that the allegation with regard to the offence under Section 354(A) is also false since the complaint against the petitioner was lodged as a counter-blast to the complaint filed by the petitioner against the de facto complainant on the very same day i.e, on 07.01.2019 for offences under Sections 294(b) and 506(i) IPC and submitted that there are several arguable points in the revision; that considering the age of petitioner, he should be exempted from surrendering and sentence should be suspended.

4. Heard the learned Government Advocate (Crl.Side) for the respondent.

5. It is seen from the impugned judgment that an FIR was registered against the de facto complainant also under Sections 294(b) and 506(i) IPC. There is force in the submission made by the learned counsel for the petitioner that the complaint against the petitioner is a counter blast. Hence, the above aspect and the other grounds raised have to be considered in the above revision. Hence, this Court is inclined to exempt the petitioner from surrendering and grant the relief of suspension of sentence.



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6. Accordingly, this criminal miscellaneous petitions stand allowed and the sentence imposed on the petitioner is suspended and the petitioner is ordered to be released on bail on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate (Additional Mahila Court), Vellore;
- (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; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the revision 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.

28.01.2025

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To

1. The Principal Sessions Court, Vellore.

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2. The Judicial Magistrate (Addl. Mahila Court),
Vellore.

SUNDER MOHAN,J.

nv

3. Inspector of Police,
Virinchipuram Police Station,
Vellore District.
4. The Public Prosecutor,
High Court, Madras.

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