

In the Court of the Vacation Sessions Judge, Theni.

Present: Thiru. P. Ganesan, B.A., B.L., D.L.L.,
Vacation Sessions Judge, Theni,

Dated this the 17th day of May 2024

M.P.No : 01 of 2024 -In-

C.A.No : 03 of 2024

(S.T.C.No.02/2024 on the file of the Judicial Magistrate, Uthamapalayam)

Mathankumar ... Petitioner/Appellant/Accused
-Versus-

1. Punitha
2. Minor. Inniyan ... Respondents

This is petition coming on this day before me for hearing in the presence of Thiru. S. Kumaran, Advocate for the Petitioner/Appellant/Accused and Learned Counsel for the state, this court passed the following:

ORDER

1. The petition is filed U/s. 389(1) of Code of Criminal Procedure seeking suspension of sentence.

2. The case of the petitioner is as follows:-

The Respondents herein filed D.V.C.No.31/2021 against the Petitioner / Appellant for prohibitory order and maintenance before the Learned Judicial Magistrate at Uthamapalayam. After enquiry the Learned Judicial Magistrate passed an order dated 13.10.2023 directing the Petitioner herein to pay a sum of Rs.15,000/- to each Respondents herein and to pay a sum of Rs.3,00,000/- as compensation with cost. As the Petitioner failed to comply with the order, the Respondents herein filed S.T.C.No. 02/2024 before the Learned Judicial Magistrate at Uthamapalayam seeking to pass an order U/Sec. 31 of Protection of Women from Domestic Violence Act. After due enquiry, the trial Court convicted and sentenced the petitioner to undergo one year simple imprisonment and to pay fine of Rs.20,000/- in default to pay fine

undergo one month simple imprisonment. Challenging the said order dated 07.05.2024, the petitioner being the Respondents in the said S.T.C.No. 02/2024 filed the present Criminal Appeal.

3. The points for determination is that can order of sentence be suspended ?

Answer :-

4. The Respondents herein filed S.T.C.No. 02/2024 against the petitioner before the Judicial Magistrate Court at Uthamapalayam to punish the petitioner herein for breach of protection order dated 13.10.2023 passed by the Learned Judicial Magistrate.

5. After enquiry, the Learned Judicial Magistrate convicted and sentenced to the petitioner to undergo one year simple imprisonment and to pay fine of Rs.20,000/- in default to pay fine undergo one month simple imprisonment on 07.05.2024. The counsel for the petitioner argued that the protection order dated 13.10.2023 passed by the Learned Judicial Magistrate is an ex-parte order. Further he submitted that the petitioner is ready to pay Rs.50,000/- towards compensation to the Respondents. With this, the counsel for the petitioner prays for suspension of sentence. It is needless to say that the petitioner and Respondent No.1 are husband and wife, so the dispute emerged out of family issue. In addition the petitioner would submit that he would deposit a sum of Rs.50,000/- towards complying with the protection order. The matrimonial bond between the parties is fabricated on a thin layer and involve sensitive matter. The couples would also re-unite in future after forgetting their all matrimonial disputes. So the present case is to be handled with utmost care and caution. Having considered all the facts together, I am inclined to suspend the sentence passed on the petitioner with conditions.

6. Therefore the order of sentence passed by the trial Court dated 07.05.2024 in S.T.C.No. 02/2024 is suspended till the criminal appeal is disposed of. Meanwhile the petitioner is directed to surrender before the Learned Judicial Magistrate at Uthamapalayam within 10 days from the date of this order. On his surrender, the Learned Judicial Magistrate is directed to release the petitioner on bail on his executing a bond for sum of Rs.10,000/- (Rupees Ten Thousand Only) with single surety for the likesum. Further the petitioner is directed to deposit a sum of Rs.One lakh into the Judicial Magistrate Court at Uthamapalayam within 10 days from the date of this order towards complying the order passed by the Learned Judicial Magistrate dated 13.10.2023.

7. The Respondents are thereafter permitted to withdraw the amount of Rs.One lakh from the Court. For the said effect the petition is allowed.

In the result, this petition is allowed.

Pronounced by me in open Court on this the 17th day of May 2024.

**Vacation Sessions Judge,
Theni.**

Copy to :-

1. The Judicial Magistrate, Uthamapalayam.
2. The Petitioner's through his Counsel.
3. Tmt. Punitha, W/o. Mathankumar, Kanniyampatty
Chinnaovulapuram, Chinnamanur,
Uthamapalayam Taluk, Theni District.