



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

Tuesday, the Twenty Sixth day of April Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice V.S.RAVI

CRL MP(MD) No.3585 of 2016

IN

CRL RC(MD) No.270 of 2016

KRISHNAMOORTHY

..PETITIONER/PETITIONER/
APPELLANT/ACCUSED No.1

Vs.

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
MANAMADURAI,
SIVAGANGAI DISTRICT.
CR. NO.9/2008

..RESPONDENT/RESPONDENT/
RESPONDENT/COMPLAINANT

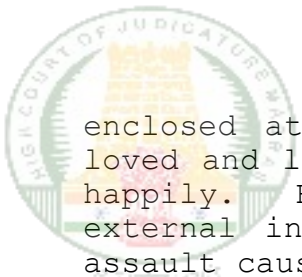
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence imposed against the petitioner in Crl.A.No.1 of 2013 dated 6.4.2016 on the file of the Fast Track Mahila Court, Sivagangai, confirming the judgment in S.C.No.107/2008 dated 3.1.2013 on the file of the Learned Chief Judicial Magistrate Cum Assistant Sessions Judge Sivagangai and enlarge petitioner on bail pending disposal of Crl.R.C.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S M.SUBASH BABU, Advocate for the petitioner and of Mr.P.KANDASAMY, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This is an application filed by the petitioner/revision petitioner/A1 to suspend the sentence imposed against the petitioner in Crl.A.No.1 of 2013 dated 06.04.2016 on the file of the Fast Track Mahila Court, Sivagangai, confirming the judgment in S.C.No.107 of 2008 dated 03.01.2013 on the file of the learned CJM cum Assistant Sessions Judge, Sivagangai and enlarge the petitioner on bail pending disposal of the revision.

2.It is specifically stated on behalf of the petitioner in the affidavit filed by the mother of the petitioner that the complaint has been lodged by the defacto complainant and the learned Assistant Sessions Judge has convicted the appellant for the alleged offence under Section 376 of I.P.C. and sentenced him to undergo seven years simple imprisonment and to pay a fine of Rs.3,000/- in default to undergo three months.

3.Further, it is stated that the victim girl has admitted in her deposition that she has not informed about the occurrence for 15 days to her parents, as per the details enclosed at Page No.7 of the typed set of papers. Further, the father of the victim girl, in his deposition



enclosed at page No.15, has clearly admitted that A1 and his daughter loved and liked each other and thereafter, they have been lived together happily. Further, he has also admitted that there is no symptoms of external injuries caused to the victim girl due to the alleged sexual assault caused by the accused.

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4. In the grounds of revision, it is stated that P.W.1 has admitted that more than 2 to 3 months, the revision petitioner came to her house and also they have got sexual relationship with each other and hence, the willingness given by the victim, will not attract the offence of rape. Further, P.W.4, who is the independent witness has been treated as hostile witness, as he has not supported the case of prosecution.

5. On a Perusal of the materials available on records, it is found that there are certain force in the points raised in the grounds of revision. It is also stated that there is prima facie case in favour of the petitioner. From the submissions made on behalf of the petitioner, this Court finds that there are substantial and arguable points in the present case. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main revision alone, the correct and proper finding in the main case can be given.

6. Further, it is seen that various points raised in the grounds of revision require an indepth/threadbare examination at the time of final hearing of the main revision and also on going through the various grounds raised in the grounds of revision at this stage, this Court, to prevent aberration of justice, suspends the sentence pending disposal of the criminal revision with the following conditions:

i) the petitioner/revision petitioner/A1 shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a likesum to the satisfaction of the learned Chief Judicial Magistrate cum Assistant Sessions Judge, Sivagangai;

ii) the petitioner/revision petitioner/A1 shall appear before the said Court once in a month viz., first working day of every month until further orders, failing which the said Court is directed to inform about the details of failure committed by the petitioner in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the petitioner/revision petitioner/A1 shall furnish his present full details of his residential address along with the copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India and also phone numbers(mobile/landline) if any to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent; and

iv) on receipt of the true copy of the said affidavit, the respondent police herein is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to take appropriate follow up action, in accordance with law.

sd/-

26/04/2016



1 THE CHIEF JUDICIAL MAGISTRATE CUM ASSISTANT SESSIONS JUDGE,
SIVAGANGAI.

2 THE FAST TRACK MAHILA JUDGE, FAST TRACK MAHILA COURT, SIVAGANGAI.

3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, MANAMADURAI,
SIVAGANGAI DISTRICT.

4 THE ADDL. PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

+1. C.C. to M/S M.SUBASH BABU Advocate SR.No.24258

ORDER IN
CRL MP(MD) No.3585 of 2016 IN
CRL RC(MD) No.270 of 2016
Date :26/04/2016

PBK/SK-SKN/AR-I 27/04/2016 ::3P-7C::