

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Fourth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.14011 of 2017

IN CRL A.711/2017

1 RATHINAM, [PETITIONERS/APPELLANTS/ACCUSED-2,3,4,5,8,]
2 SELVAM,
3 APPU @ KUMAR
4 SARAVANAN,
5 ALAGUVEL,

Vs

THE STATE REP BY ITS, [RESPONDENT/RESPONDENT/COMPLAINANT]
THE INSPECTOR OF POLICE,
GANAGAVALLI POLICE STATION,
SALEM DISTRICT
CR.NO.136 OF 2014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.711/2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioners by judgment dated 30.10.2017 in Spl.S.C.No.2 of 2016 by the Sessions Judge, Mahila Court, Salem and enlarge the petitioners on bail, pending disposal of the appeal before this Honble Court.[CRL.MP.NO.14011/2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.711/2017 on the file of the High Court and upon hearing the arguments of M/S.B.VASUDEVAN, Advocate for the petitioner and of MR.V.ARUL ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The petitioners / appellants / A-2 to A-5 and A-8 were convicted by the trial Court / learned Sessions Judge, Mahila Court, Salem, in S.C.No.2 of 2016 and sentenced for the respective offences, which are tabulated as hereunder:-

Accused Rank /	convicted under Sections	Sentence
In respect of A-2 to A-5	u/s 363 r/w 149 IPC	to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.5000/- in default to undergo Simple imprisonment for six months.
	366 IPC r/w149 IPC	to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.5000/- in default to undergo Simple imprisonment for six months.
In respect of A-8 :	u/s 366 r/w 149 IPC	to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.5000/- in default to undergo Simple imprisonment for six months.

2. The trial court ordered the sentences imposed in respect of the petitioners herein to run concurrently. Challenging the same, the petitioners / A-2 to A-5 and A-8 have filed the present Criminal Appeal and pending Appeal, the petitioners / accused have filed this petition, seeking to suspend the sentence of imprisonment and release them on bail.

3. According to the case of the prosecution, the victim girl was kidnapped with the assistance of these accused persons.

4. Heard the learned counsel for the petitioners.

5. The learned Additional Public Prosecutor takes notice for the respondent / State.

6. The learned counsel appearing for the petitioners herein / accused 2 to 5 and 8 submitted that the victim girl was aged 17 years, 11 months and 24 days, (on the date of occurrence) according to the evidence of the School Headmaster and without considering the age in the proper perspective and without considering the evidence available on record, the trial court has chosen to convict these accused persons. It is pointed out that the allegations as against these accused persons are not specific and it is very vaguely stated that they were helpful in kidnapping the victim. Photographs have been filed to show that the victim girl has been married to the first accused with the assistance of the mother of the victim girl.

7. The fervent plea made by the learned counsel appearing for the petitioners is that as the Appeal is not likely to be taken up for final hearing in the near future, the sentence passed as against these accused must be suspended and they must be released on bail.

8. Considering the facts and circumstances of the case and considering the grounds of appeal and the submissions made by the learned counsel appearing for both sides, this Court is of the considered view that these petitioners / A-2 to A-5 and A-8 are entitled to the relief of grant of suspension of sentence.

9. Accordingly, the substantive sentence of imprisonment alone on these petitioners / A-2 to A-5 and A-8 is suspended and the petitioners are directed to be enlarged on bail, upon the following conditions:-

(i) The petitioners 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 learned Sessions Judge, Mahila Court, Salem; and

(iii) The petitioners shall appear before the said learned Judge, on the first working day of every English Calendar month, at 10.30 a.m., pending disposal of the Appeal.

-sd/-

24/11/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE
MAHILA COURT, SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
GANAGAVALLI POLICE STATION, SALEM DISTRICT

5 THE SUPERINTENDENT
CENTRAL PRISION, COIMBATORE

2 C.C. to M/S.B.VASUDEVAN Advocate on payment of necessary charges SR.NO. 21498

Order

in
CRL MP.14011/2017

in
CRL A.711/2017

Date :24/11/2017

From 7.2.2001 the Registry is issuing certified
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RD 24/11/2017