

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Third day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.9416 of 2017

IN CRL A.694/2016

ELANGO KARTHIK

[APPELLANT / 1st ACCUSED]

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
POLLACHI,
COIMBATORE DISTRICT.
CRIME NO.14 OF 2014.

[RESPONDENT / COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.694/2016 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the Judgment dated 15.07.2016 passed in Special SC.NO.50/2014 on the file of Sessions Judge Magalir Neethimandram (Mahila Court), Coimbatore and enlarge the petitioner on Bail pending disposal of the above Criminal Appeal No:694/2014 before this Hon'ble Court and thus render justice.[IN CRL.MP.NO.9416 OF 2017]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.694/2016 on the file of the High Court and upon hearing the arguments of M/S.R.NALLIYAPPAN, Advocate for the petitioner and of MR.C.EMALIAS, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

By Judgment dated 15.07.2016 in Spl.C.C.No.50/2014, the learned Sessions Judge Magalir Neethimandram (Mahila Court), Coimbatore convicted the petitioner for the offence punishable under Sec.3(a) r/w 5(1) r/w 6 of POSO Act 2012 and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for three months and also convicted for the offence punishable under Sec.306 IPC and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo simple imprisonment for three months and both the sentences are ordered to run concurrently. Challenging the said conviction and sentence, the petitioner has filed the present appeal. Pending appeal, the petitioner has filed the present petition, seeking suspension of sentence. The petitioner is in incarceration since 27.04.2016.

2. It is the case of the prosecution that the petitioner was in love with the victim girl, who is aged about 14 years and on the promise of marrying her, he had sexual relationship with her and thereafter, it is alleged that he reneged, on account of which, the victim girl committed suicide by self immolation.

3. The dying declaration of the victim girl shows that she was in love with the petitioner, but of course, she has stated that the petitioner had physical relationship with her thrice on the promise of marrying her. The petitioner is in incarceration for more than one year.

4. Heard the learned Additional Public Prosecutor and perused the materials available on record.

5. Fine amount has been paid. In such view of the matter and also taking into consideration of the fact that the accused has been in incarceration for more than one year and also taking note of the fact that the likelihood of not taking up the appeal for hearing in the near future and there are arguable points in favour of the petitioner and inasmuch as the victim girl herself stated that she was in love with the petitioner, this Court is inclined to suspend the sentence.

6. Accordingly, substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing 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, Magalir Neethi Mandram (Mahila Court), Coimbatore and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Mahila Judge may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(ii) the petitioner shall appear before the trial Court at 10.30 a.m on the first working day of every month till the disposal of the appeal.

-sd/-
03/10/2017

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
MAHALIR NEETHIMANDRAM,
[MAHILA COURT] COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
POLLACHI, COIMBATORE DISTRICT.

+1C.C. to M/S.R.NALLIYAPPAN Advocate on payment of necessary
charges SR NO.18807

Order

in
CRL MP.9416/2017

in
CRL A.694/2016

Date :03/10/2017

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MK:09/10/2017