



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

Monday, the Eleventh day of December Two Thousand Seventeen

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PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP (MD) No.10929 of 2017

IN

CRL A (MD) No.480 of 2017

DURAIMANICKAM

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT
CR NO. 03/2016.

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against me in S.C No. 14/2016 dated 27.06.2017 on the file of the Learned Fast Track Mahila Court Thanjavur and enlarge me on bail pending disposal of the above Criminal Appeal Petition.

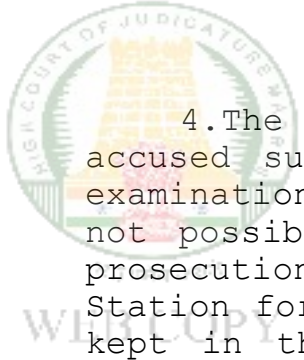
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.R.MAHESWARAN, Advocate for the petitioner and of Mr.C.MAYIL VAHANA RAJENDRAN, Additional Public Prosecutor, on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the Petitioner / Sole Accused, praying to suspend the sentence of imprisonment imposed on him, by the learned Fast Track Mahila Court, Thanjavur, in its order dated 27.06.2017 in Spl.C.C.No.14 of 2016 pending disposal of the above Criminal Appeal.

2.After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 18 POCSO Act	3 years R.I + Fine of Rs.500/-, i/d 3 months S.I.

<https://hcservices.courts.gov.in/hcservices/>
3.The amount has been paid by the petitioner. Proof of payment is also paid today.



4.The learned counsel appearing for the petitioner / sole accused submitted that P.W.1, particularly admitted in her cross examination that the petitioner stumbling to walk. Therefore, it is not possible to commit rape by the petitioner as alleged by the prosecution. As per the evidence of P.W.3, went to all Women Police Station for lodging complaint where the petitioner was arrested and kept in the police station. But ,according to the investigating Officer(PW14), on secret information, he was arrested the petitioner on 27.05.2016 at about 7.00p.m. near Palliagraharam bus stop. P.W.9, is the scientific officer, who deposed in evidence that no sperm was found and therefore, medical evidence is totally contradicting to the prosecution case.

5.It is further stated that no renovation work has been going on at that time of occurrence, opposite to the petitioner's house. It is further stated that there is a dispute existing between the petitioner and the father of P.W.1 relating to open a common pipe line water. He further submitted that the petitioner is having arguable points in this appeal and he is having a prima facie case. This appeal for acquittal.

6.The learned Additional Public Prosecutor appearing for the respondent would submit that the Trial Court has rightly convicted the accused on the basis of the evidence adduced by the prosecution during trial and the petitioner / sole accused is not having any prima facie case in the appeal. However, the learned Additional Public Prosecutor has no serious objection to grant an order of suspension.

7.This Court heard the submissions made by the learned counsel appearing for the petitioner / sole accused and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials available on record, including the impugned Judgment of the Court below.

8.Considering the above facts and circumstances of the case, this Court is of the view that there are certain arguable points involved in this Criminal Appeal and they are required to be examined in detail in the main Appeal. I see prima facie case in favour of the petitioner / sole accused, for grant of an order of suspension.

9. On considerations, ordered as under:-

- (i) Appeal bail granted.
- (ii) Sentence of imprisonment ordered by the trial Court alone is suspended, till the disposal of the appeal.
- (iii) There shall be two sureties and they shall execute a bond for Rs.15,000/- (Rupees Fifteen Thousand Only) each to the satisfaction of the learned Fast



(iv) The petitioner / appellant shall appear before the said Court on the first working day of every month at 10.30 am., until further orders.

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sd/-
11/12/2017

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE FAST TRACK MAHILA COURT
THANJAVUR
- 2 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY-20
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THANJAVUR DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. C.C. to M/S.R.MAHESWARAN Advocate SR.No.35998

ORDER
IN
CRL MP(MD) No.10929 of 2017
IN
CRL A(MD) No.480 of 2017
Date :11/12/2017

smi
SH/CM-VR/SAR-1:13.12.2017:3P/6C