



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

Friday, the Thirtieth day of June Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.1103 of 2017
IN
CRL A(MD) No.37 of 2017

KUMAR

... PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKOTTAI.
CR NO. 13/2014

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of Imprisonment imposed by the learned Sessions Judge Mahila Neethimandram Pudukottai in S.C. NO. 179 of 2014 by the judgement dated 31.01.2017 and enlarge the Petitioner /Appellant on bail pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.D.RAMESHKUMAR, Advocate for the petitioner and of MR.C.MAYIL VAHANA RAJENDRANM, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioner / appellant is the accused in this case. The Trial Court / Sessions Judge Mahila Neethimandram, Pudukkottai has convicted the petitioner / accused and sentenced to undergo 10 years R.I. and imposed a fine amount of Rs.2,000 in default 1 year R.I. for the offence under Section 376(1) IPC.

2.The find amount was also paid.

3.The accused is confined at Central Prison, Trichy from the date of judgment i.e., on 31.01.2017. Aggrieved by the order of conviction passed by the Trial Court, the petitioner / appellant preferred the present Criminal Appeal in Crl.A.(MD)No.37 of 2017 before this Court and same is pending. The present impugned petition is filed by the petitioner / accused for suspension of sentence since the accused is confined the Central Prison, Trichy.

4.The learned counsel for the petitioner / appellant would submit that there are material contradictions between the



prosecution witnesses and exhibits and there is no cogent and continuity of evidence to bring prove the offence against the petitioner / appellant.

5.The learned Government Advocate (Crl.side) appearing for the respondent would submit that by relying the allegations made in the counter statement of the respondent that the Trial Court has rightly convicted the petitioner / accused on appreciating the evidence adduced by the prosecution and the petitioner / accused is not having any *prima facie* case to succeed in this Criminal Appeal.

6.Perused the judgment of the Trial Court and heard and considered carefully the rival submissions by either side.

7.The victim is the sole eye witness of the occurrence. The victim and the accused are close relatives. During the evidence of P.W.1 / victim and her sister namely, Lakshmi / P.W.2, they have admitted that there was a proposal for marriage of P.W.1 victim with the accused. But, the parents of the accused have not accepted the said proposal and due to which, they are not having cordial terms with the family of the accused.

8.The learned counsel for the petitioner / appellant has pointed out that the said motive is the cause for lodging a false complaint against the accused. Such motive was also admitted during the evidence of P.W.1 and P.W.2. Further, P.W.2 and P.W.3 have seen the accused with P.W.1 in the occurrence place. During the trial, P.W.3 has not supported the case of the prosecution and turned hostile. P.W.2 has also admitted that has not seen the alleged occurrence. The alleged occurrence was said to have taken place at about 12.30 p.m. on 10.08.2014. But the complaint was given at about 1.00 a.m., on 11.08.2014 as per the evidence of P.W.15.

9.The learned counsel for the petitioner / accused would submit that there is a delay in preferring the complaint, which cause serious doubt against the prosecution case.

10.The learned Government Advocate (Crl.side) would submit that D.N.A. report in respect of the blood stain of the accused and the victim / P.W.1 and also P.W.12 / Doctor evidence prove the offence of rape committed upon P.W.1 by the accused. It is admitted that the victim girl was major at the time of occurrence and she is also the close relative of the accused herein and the marriage proposal between the accused and the victim failed and thereafter, the accused family and the victim family are not in cordial terms and that the petitioner / accused is not *prima facie* case.

11.Considering the above facts and circumstances of the case and also on perusal of the judgment of the Trial Court and the materials on record, this Court finds that there are certain arguable points in this Criminal Appeal in favour of the petitioner / appellant. They are required to be examined in detail in the main Criminal Appeal. Further, it will take some time for the disposal of the Criminal Appeal.



12. On considerations, ordered as under:

(i) **Appeal bail is granted.**

(ii) **Substantial sentence alone is suspended** on condition that the petitioner shall execute a bond for Rs.15,000/- (Rupees Fifteen thousand only) with two sureties each for the like sum each to the satisfaction of the learned Judicial Magistrate, Pudukkottai.

(iii) The petitioner shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

sd/-

30/06/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, PUDUKKOTTAI.
- 2 THE CHIEF JUDICIAL MAGISTRATE, PUDUKKOTTAI DISTRICT.
- 3 THE SESSIONS JUDGE MAHILA NEETHIMANDRAM, PUDUKKOTTAI.
- 4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PUDUKOTTAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 6 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1. C.C. to M/S.D.RAMESHKUMAR Advocate SR.No.25513

ORDER

IN

CRL MP(MD) No.1103 of 2017

IN

CRL A(MD) No.37 of 2017

Date :30/06/2017

MKV-CM-SAR 1/30.6.2017/3P-8C