



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

Thursday, the Sixteenth day of March Two Thousand Seventeen

PRESENT

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

CRL MP (MD) No.1328 of 2017
IN
CRL A (MD) No.45 of 2017

DUR AISAMY ... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

STATE REPRESENTED BY,
THE INSPECTOR OF POLICE
RAJATHANI POLICE STATION,
IN CRIME NO.444 OF 2010,
THENI DISTRICT.

... RESPONDENT/RESPONDENT/COMPLAINANT

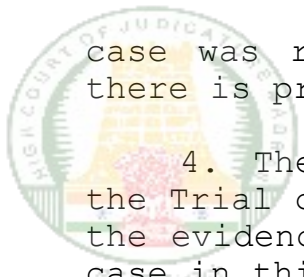
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the Petitioner /Appellant/ Accused in S.C.No. 125 of 2014 dated 31.01.2017 on the file of the Learned Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Theni and enlarge him on bail pending disposal of the appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.G.K.ARUPPASAMY PANDIAN, Advocate for the petitioner and of MR.P.KANDASAMY Government Advocate (Crl.side) on behalf of the Respondent the court made the following order:-

The petitioner / accused in S.C.No.125 of 2014 on the file of the Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Theni, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2. After trial, he has been convicted and sentenced and the petitioner paid the fine amount.

3.The learned counsel for the petitioner submitted that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He also submitted that during trial, the victim girl has not corroborated the offence of abduction as alleged by the prosecution. It is further stated that as per the alteration report, for the offence under Section 366 IPC, the victim girl, who was examined as P.W.4, has given confession before the court below under Section 164 Cr.P.C. that she was not abducted by the petitioner / accused, since initially the



case was registered as woman missing. He further submitted that there is prima facie case in favour of the petitioner.

4. The learned Government Advocate (Crl.side) submitted that the Trial court has rightly convicted the petitioner on the basis of the evidence adduced by the prosecution and there is no prima facie case in this appeal. However, he has no objection to grant order of suspension.

5. In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal appeal. 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. Accordingly, the petition is allowed on the following conditions:

- (i) Appeal bail granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned Judicial Magistrate, Andipatty.
- (iii) The petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-

16/03/2017

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, ANDIPATTY.
- 2 THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
- 3 THE SESSIONS JUDGE,
MAGALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT), THENI.
- 4 THE ADDL.SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 5 THE INSPECTOR OF POLICE
RAJATHANI POLICE STATION, THENI DISTRICT
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.AK.AZAGARSAMY Advocate SR.No.15221

ORDER

IN

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IN

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Date :16/03/2017