



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

Friday, the Eleventh day of August Two Thousand Seventeen
PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.7043 of 2017

IN

CRL A (MD) No.303 of 2017

WEB COPY

SELVAM

... PETITIONER/APPELLANT

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PATTUKOTTAI,
THANJAVUR DISTRICT,
CRIME NO. 17/2012

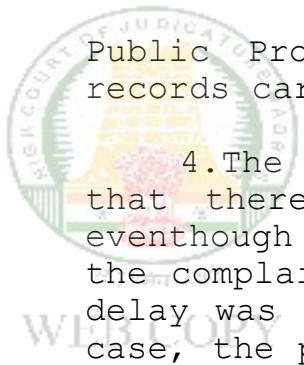
... RESPONDENT/RESPONDENT

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 Mahalir Neethimandram (Fast Track Mahila Court) Thanajvur in S.C No. 283/2012 by the Judgement dated 30.06.2017 and enlarge 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.S.DEENADHAYALAN, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

This petition has been filed praying to suspend the sentence imposed against the petitioner in S.C.No.283 of 2012, dated 30.06.2017, by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur.

2. The petitioner stood charged for an offence under Sections 450, 417 and 506(ii) of IPC, Section 6 POCSO Act. The trial Court convicted the petitioner under Section 376(1) of IPC and sentenced to undergo 10 years Rigorous Imprisonment and imposed a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment. He was also convicted for the offence under Section 450 of I.P.C. and sentenced to undergo 5 years Rigorous Imprisonment and was imposed a fine of Rs.1,000/-, in default, to undergo six months simple imprisonment and both the sentences shall run concurrently. Against the conviction and sentence passed by the trial Court, Crl.A (MD)No.303 of 2017 has been filed and in order to suspend the sentence, the present Miscellaneous Petition is filed.



Public Prosecutor appearing for the respondent and perused the records carefully.

4. The learned counsel appearing for the petitioner submitted that there is a delay of nine months in filing the complaint even though the occurrence said to have taken place on 07.08.2011, the complaint has been given only on 04.05.2012. The reason for the delay was not explained by the prosecution. As per the prosecution case, the petitioner has promised to marry the victim girl, and had sexual intercourse with her, but the Court below acquitted him under Section 417 of IPC. Apart from that the case of the prosecution is that after having sexual intercourse, the victim girl got pregnant, subsequently the victim girl undergone abortion. PW6, the Doctor, who examined the victim girl was given an opinion that he cannot give any definite opinion regarding the abortion, the medical evidence did not corroborate the evidence of the prosecution. Apart from that there is lot of contradictions in the evidence of the prosecution witnesses. The Court below without considering all these contradictions, convicted the petitioner. Hence, the petitioner has come up with this petition before this Court.

5. The learned Additional Public Prosecutor submitted that the victim girl was aged 14 years at the time of occurrence and she is a minor girl and hence the question of consent does not arise, only on deception, the petitioner had sexual intercourse with her, since it is a sexual offence against the minor girl, the sentence should not be suspended.

6. Considering the evidence and perusal of the records, it is seen that the occurrence had taken place on 07.08.2011 and the complaint was given only on 04.05.2012 nearly after nine months. Apart from that the medical evidence also did not corroborate the evidence of the prosecution. Considering all these facts and since there are some arguable points involved in the appeal and it may take long time to dispose of the appeal, I am inclined to suspend the sentence of imprisonment alone imposed against the petitioner.

7. In fine, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Pattukkottai, with a further condition that the petitioner shall report before the committal Court on the first working day of every English Calendar month at 10.30 a.m., till the disposal of the appeal or until further orders.

sd/-

11/08/2017

/ TRUE COPY /



TO

1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM
(FAST TRACK MAHILA COURT), THANJAVUR.

2 THE JUDICIAL MAGISTRATE, PATTUKKOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKONAM.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PATTUKOTTAI, THANJAVUR DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

6 THE SUPERINTENENT, CENTRAL PRISON, TIRUCHIRAPPALLI.

+1. C.C. to M/S.S.DEENADHAYALAN Advocate SR.No.28658

PJL

CSL/RR-BS/SAR-II/17.08.2017 : 3P/8C

ORDER

IN

CRL MP(MD) No.7043 of 2017

IN

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Date :11/08/2017