

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourth day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.2493 of 2018

IN CRL A.106/2018

BHARATHI,

[APPELLANT/ACCUSED]

Vs

THE STATE REP. BY ITS
THE INSPECTOR OF POLICE,
VELLITHIRUPPUR P.S.,
ANTHIYUR, ERODE DISTRICT.
CR.NO.10 OF 2013

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.106 OF 2018 on the file of the High Court, the High Court will be pleased to Suspend the sentence imposed in S.C.No.133 of 2013 dated 08.04.2014 on file of the learned Sessions Judge, Mahila Court at Erode and enlarge the petitioner on bail, pending disposal of the above CRL.A.NO.106/2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.106 of 2018 on the file of the High Court and upon hearing the arguments of M/S.N.NARAYANAN, Advocate for the petitioner and of Mr.R.SURYA PRAKASH, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

The petitioner was convicted for the offence under Section 3 r/w 4 of the Protection of Children From Sexual Offence Act, 2012 and sentenced to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for a period of one year by the learned Sessions Judge, Mahila Court, Erode in S.C.No.133 of 2013 dated 08.04.2014. Aggrieved against the above said conviction and sentence passed by the trial Judge, the appellant/petitioner has preferred the criminal appeal. Pending the appeal, the petitioner/appellant has filed the petition seeking suspension of sentence imposed by the learned Sessions Judge, Mahila Court at Erode in S.C.No.133 of 2013, dated 08.04.2014.

2. The learned counsel appearing for the petitioner would submit that the petitioner has been in jail nearly for the past five years. Though the conviction is passed on 08.04.2014, the petitioner has preferred the present appeal only in the year 2018 and seeks suspension of sentence on the ground that almost 50% of the sentence

was already undergone by the petitioner and that due to previous enmity between the families of the petitioner and the defacto complainant, a false case has been foisted against the petitioner. Thus, he seeks suspension of sentence.

3. The learned Government Advocate would submit that PW-1[victim girl] was aged about 13 years at the time of occurrence in the year 2000 and the accused wanted to marry the victim girl which was refused by the victim girl on the ground of prohibited relationship between the families of the petitioner and victim girl and during the absence of the parents of the victim girl, he had committed forcible sexual intercourse and the accused caught red-handed by PW-2, who is the father of the victim girl. Subsequently, the complaint has been registered, based on the statement received from the Government Hospital. The Government Advocate by relying on Sections 29 and 30 of the POSCO Act, has strongly opposed to grant suspension of sentence.

4. From perusal of the records, it is seen that on 20.01.2013 at about 08.00 p.m., PW-1[victim girl] was alone in the house. Having previous acquaintance with the victim girl, the petitioner/accused went inside the house and committed sexual intercourse on the victim girl, who is aged about 13 years. On hearing the hue and cry of the victim girl, the father of the PW-1 rushed to the scene of occurrence and found that the accused was laying on the body of the victim girl. After the victim girl kicked the accused, the accused escaped from the scene of occurrence leaving behind his dress materials. Based on the complaint given by the victim girl, First Information Report was registered and on completion of investigation, final report has been filed.

5. Considering the evidence of PW-7 and PW-8, who have spoken regarding the age of the victim and also the evidence of PW-1(victim girl), PW3(Dr.Kavitha) and PW-5 (Dr.SriDevi), who had given medical treatment to the victim girl, this Court is not inclined to grant suspension of sentence to the petitioner for the present.

6. Accordingly, this petition seeking suspension of sentence, is dismissed for the present. However, the petitioner/accused is at liberty to move the Court at a later point of time.

-sd/-

04/09/2018

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,
MAHILA COURT, ERODE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE STATE REP. BY ITS
THE INSPECTOR OF POLICE,
VELLITHIRUPPUR P.S.,
ANTHIYUR, ERODE DISTRICT.

COPY TO

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

NOTE:

(Registry is directed to prepare the typed set of papers since this case is of the year 2014 and post the case for final disposal)

+1 C.C. to M/S.N.NARAYANAN Advocate on payment of necessary charges-Sr.16823

Order

in

CRL MP.2493/2018

in

CRL A.106/2018

Date :04/09/2018

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From 7.2.2001 the Registry is issuing certified
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ths : 06.09.2018