

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Third day of September Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.8201 of 2017

IN CRL A.379/2017

SARAVANA KUMAR

[PETITIONER]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
PERUNTHURAI POLICE STATION,
ERODE DISTRICT.
CR.NO.150/2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.379/2017 on the file of the High Court, the High Court will be pleased to enlarge the petitioner on bail by suspending the sentence imposed in S.C.No.55/2015 dated 09.12.2015 on the file of Sessions Court, Mahilar Neethimandram (Mahila Fast Track Court), Erode pending in C.A.No.379 of 2017 on the file of this Honble Court.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.379/2017 on the file of the High Court and upon hearing the arguments of M/S.T.MURUGANANTHAM. Advocate for the petitioner and of MR.B.KRITIKA KAMAL.P.Government Advocate[crl.side] on behalf of the Respondent the court made the following order:-

The petitioner was convicted for the offence under Sections 366 and 498 IPC and sentenced to undergo Rigorous Imprisonment for a period of 10 years and to pay a fine of Rs.100/-, in default to undergo Simple Imprisonment for a period of 6 months for the offence under Section 366 IPC and to undergo Rigorous Imprisonment for a period of two years and to pay a fine of Rs.100/- in default to undergo Simple Imprisonment for a period of six months by the learned Sessions Judge, Mahalir Neethimandram(Mahila Fast Track Court), Erode made in S.C.No.55 of 2015 dated 09.12.2015. Aggrieved against the judgment of conviction and sentence, the 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, Mahilar Neethimandram(Mahila Fast Track Court), Erode in S.C.No.55 of 2015 dated 09.12.2015.

2. The learned counsel appearing for the petitioner would submit that PW-2 is one Bharathi and Her child by name Shivani Priya is

deaf and dumb. PW-2 is said to have taken the child in a bus where the petitioner is working as a Driver. On 02.03.2013, the petitioner alleged to have kidnapped PW-2 along with the child and taken them to various places and confined them secretly. The learned counsel for the petitioner would submit that while appreciating the evidence, the trial Court has failed to consider the fact that no threat or weapon was used to put PW-2 in fear; that the trial Court has failed to consider the fact that while PW-2 was taken by the petitioner to many places in two wheeler, she did not make any attempt to raise alarm and make any attempt to escape. Further, the trial Court has failed to consider the fact that the petitioner/accused and PW-2 both had stayed in lodging house and even at that time, she did not inform to anyone. Therefore, the offences under Sections 366 IPC and 498 IPC cannot be attracted against the petitioner/accused.

3. The learned Government Advocate(crl.side) has strongly opposed to grant suspension of sentence.

4. Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate(crl.side) appearing for the respondent and perused the materials available on record.

5. It is seen from the records that by the judgment of conviction dated 09.12.2015 made in S.C.No.55 of 2015, the petitioner/accused was convicted under Sections 366 and 498 of IPC and sentenced as stated supra. The petitioner/accused is in the jail for more than 4 ½ years and in view of the fact that there are several infirmities in the prosecution case and there are arguable points involved in the appeal and it is not possible to take up the appeal in near future, I am inclined to suspend the sentence imposed by the trial Court.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Mahila Court, Erode and on further condition that, the petitioner shall appear before the Mahila Court, Erode, on 1st Monday of every month at 10.30 a.m until further orders.

WEB COPY
-sd/-
03/09/2018

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 JUDICIAL MAGISTRATE,
PERUNTHURAI

1 THE MAHILA COURT
ERODE

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PERUNTHURAI POLICE STATION,
ERODE DISTRICT.

5 THE SESSIONS JUDGE
MAHALIR NEETHIMANDRAM[MAHILA FAST TRACK
COURT]ERODE

6 THE SUPERINTENDENT,
CENTRAL PRISON,COIMBATORE

+1 C.C. to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges SR.NO. 16698

Order

in
CRL MP.8201/2017

in
CRL A.379/2017

Date :03/09/2018

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RD 27/09/2018