

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Thirty First day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.8710 of 2018

IN CRL A.368/2018

E.PRAKASH @ VAIRA PRAKASH

[APPELLANT / SOLE ACCUSED]

Vs

THE STATE OF TAMIL NADU

[RESPONDENT]

REPRESENTED BY ITS,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (WEST),
COIMBATORE CITY.
CR.NO.652 OF 2014.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.368/2018 on the file of the High Court, the High Court will be pleased to suspend the sentence and grant bail to the Appellant/Sole Accused pending disposal of the Criminal Appeal before this Hon'ble Court against the Judgement passed in Special C.C.No.6 of 2016 dated 08.07.2017 on the file of the Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore in Crime No.652 of 2014 on the file of the Respondent Police pending disposal of the CRL A.368/2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.368/2018 on the file of the High Court and upon hearing the arguments of M/S.T.THIRUMURUGAN, Advocate for the petitioner and of MR. R.SURYA PRAKASH, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioner, who is the sole accused, has filed this petition seeking to suspend the sentence imposed by the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore, in Spl.C.C.No.6 of 2016, dated 18.07.2017 and grant bail to him pending disposal of the above criminal appeal.

2. The learned Sessions Judge, Magalir Neethimandram (Mahila Court), Coimbatore, has convicted the petitioner for the offence under Section 506(i) of I.P.C and sentenced him to undergo one year Rigorous Imprisonment and further convicted the petitioner for the offence under Section 3 r/w. 5 (m) r/w. 6 of POCSO Act-2012 and sentenced him to undergo twelve years Rigorous Imprisonment and to pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment and all the sentences were ordered to run concurrently.

3. Learned counsel appearing for the petitioner/accused submitted that totally 14 witnesses have been examined on the side of the prosecution. Apart from the said 14 witnesses, P.W.1 is the victim girl, P.Ws.2 to 4 are parents and grant father of P.W.1 respectively and P.W.6 and P.W.9 are neighbours. The witnesses P.Ws.7, 8 and 10 to 14 are official witnesses. It is further submitted that no independent witnesses have been examined and all the said six witnesses i.e., P.Ws.1 to 4 and P.W.6 and P.W.9 are interested witnesses. There is no eye witness and all are hearsay witnesses. Hence, their depositions are untrustworthy and the order of conviction passed by the trial Court is liable to be set aside. The learned counsel for the petitioner also submitted that the alleged occurrence took place on 17.08.2014 at about 10.00 p.m. But the complaint has been lodged by P.W.2 only on 20.08.2014 at about 17.00 hours. The said inordinate delay of two days has not been explained by the prosecution beyond reasonable doubt. Further, the material which was worn by the victim girl was not recovered by the prosecution and non recovery of the main object is not considered by the Court below. It is also submitted by the learned counsel that the witness P.W.10, who is Doctor providing treatment to P.W.1, has deposed that there is no external injuries on the body of P.W.1. It is also submitted that the Court below has failed to consider that there is civil dispute pending between the petitioner and P.W.3 and already, there was a quarrel arisen between themselves and the same was also admitted by P.W.1 in her evidence.

4. After perusing the evidence of P.W.1, the victim girl, P.W.2 mother, P.W.3 father and the evidence of P.W.6 and P.W.9 neighbours and the answers elucidated in the cross-examination coupled with the evidence of P.W.7, Judicial Magistrate and her report under Ex.P.6, I am not expressing any opinion except to say that the petitioner is not entitled for interim suspension of sentence for the present.

5. 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/-

31/07/2018

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,
MAGALIR NEETHIMANDRAM [MAHILA COURT],
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (WEST),
COIMBATORE CITY.

C.C. to M/S.T.THIRUMURUGAN Advocate on payment of necessary
charges

Order

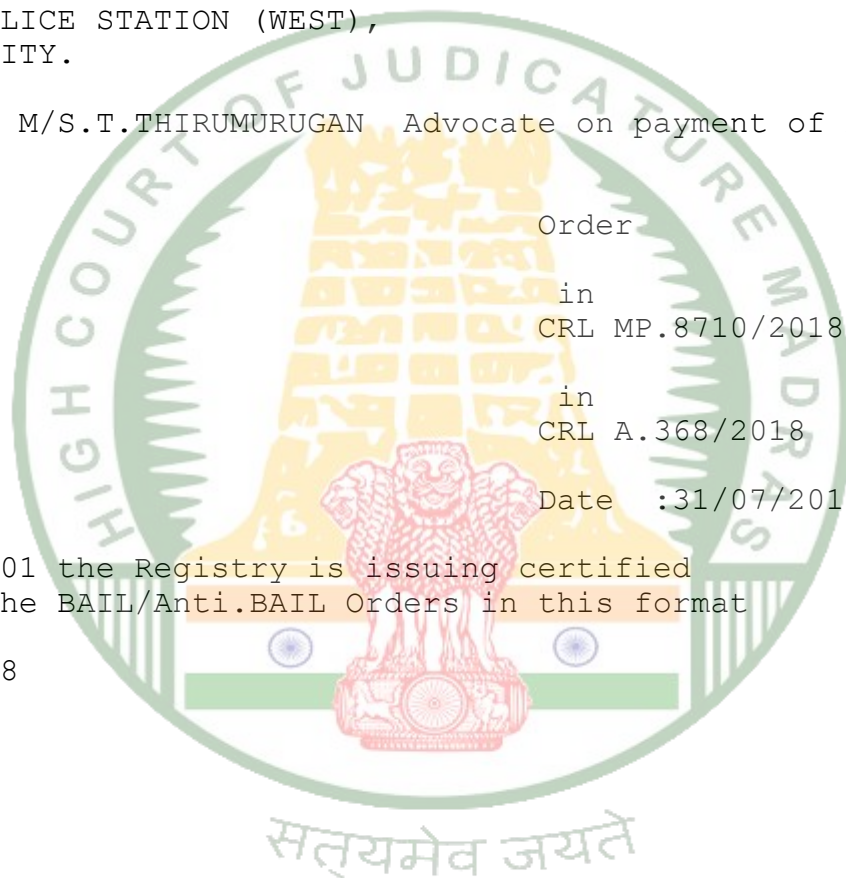
in
CRL MP.8710/2018

in
CRL A.368/2018

Date :31/07/2018

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MK:02/08/2018



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