

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Tenth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.13561 of 2018

IN CRL.A.NO.618 of 2018

RAYAPPAN

[PETITIONER /APPELLANT]

Vs

STATE REP. BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
A.W.P.S., KUNYAMUTHUR,
COIMBATORE.

CR.NO.200 OF 2015

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspension of sentence made in SC No.233 of 2016 on the file of the Fourth Additional District and Sessions Court, Mahila Court, Coimbatore in pending disposal of above Crl.A.No.618 of 2018.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.B.RAMAMOORTHY, Advocate for the petitioner, and of MR. V.SARATHA DEVI, Govt. Advocate (Crl. Side), on behalf of the Respondent, the court made the following order:-

The petitioner/appellant is the sole accused in S.C.No.233 of 2016, on the file of the Sessions Judge, Magalir Neethi Mandram (Mahila Court), Coimbatore. By judgment dated 07.06.2018, the trial Court has convicted the appellant for offence under Section 376(1) r/w 511 of the Indian Penal Code and sentenced to undergo Rigorous Imprisonment for five years and to pay a fine of Rs.20,000/-, in default, to undergo simple imprisonment for two months. Challenging the said conviction and sentence, the petitioner has preferred the above appeal and pending appeal, he seeks for suspension of sentence.

2.The learned counsel for the petitioner/appellant submitted that the petitioner has not committed the offence as alleged by the prosecution. He would further submit that the victim girl is aged about 29 years and therefore, the prosecution theory cannot be believed. Furthermore, in the Certificate issued by the Doctor, who examined the victim girl, there was no mention of any injury, which

proves that the petitioner is innocent and he has been falsely implicated in this case. Therefore, the learned counsel prays for suspension of sentence.

3.The learned Government Advocate would submit that the petitioner has committed offence punishable under Section 376 of the Indian Penal Code and the victim girl is a mentally retarded girl. The incident was witnessed by the mother of the victim girl, who entered the house and she deposed clearly pointing the offence committed by the petitioner. The evidence of P.W.1 is also supported by the evidence of other witnesses, who are neighbours and who gathered the place of occurrence on hearing the noise raised by P.W.1. The learned Government Advocate would submit that since the petitioner had committed sexual assault on a mentally retarded girl, he should not be shown any indulgence and accordingly, she prays for dismissal of the petition.

4.Considering the facts and circumstances of the case, the submissions made by the learned Government Advocate and the nature of offence committed by the accused, this Court is not inclined to suspend the sentence. Accordingly, this petition is dismissed for the present.

-sd/-

10/12/2018

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 4TH ADDITIONAL DISTRICT
AND SESSIONS COURT, MAHILA COURT,
COIMBATORE.

2 THE SESSIONS JUDGE,
MAGALIR NEETHI MANDRAM (MAHILA COURT)
COIMBATORE.

3 THE INSPECTOR OF POLICE,
A.W.P.S., KUNYAMUTHUR,
COIMBATORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

<https://hcservices.ecourts.gov.in/hcservices/>

+1 C.C. to M/S.B.RAMAMOORTHY Advocate on payment of necessary charges SR.NO. 23840

Order

in
CRL MP.13561/2018
in
CRL.A.NO.618/2018

Date :10/12/2018

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