

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 RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.14360 of 2018

IN CRL.A.NO.272 of 2018

GUNALAN

[PETITIONER/APPELLANT/ACCUSED]

Vs

STATE BY

[RESPONDENT/COMPLAINANT]

THE INSPECTOR OF POLICE,
BANAVARAM POLICE STATION,
VELLORE DISTRICT.
CR.NO.80 OF 2011

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to suspend the sentence imposed on the appellant herein in S.C No.61 of 2014 by judgment dated 26.03.2018 passed by the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Vellore, Vellore District and enlarge the petitioner on bail, pending disposal of the above Crl.A.No.272/2018.

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.K.BALU, Advocate for the petitioner, and of PUBLIC PROSECUTOR, on behalf of the Respondent, the court made the following order:-

The convicted sole accused is the petitioner herein. He has filed this petition, seeking to suspend the sentence imposed on him by the learned Sessions Judge, Magalir Neethi Mandram, Fast Track Mahila Court, Vellore, Vellore District in S.C.No.61 of 2014, dated 26.03.2018.

2. The case of the prosecution is that the petitioner and the victim girl loved each other and the petitioner made a false promise for marriage and he had a physical affair with the victim girl. Thereafter, the petitioner refused to marry the defacto complainant. Hence, the accused said to have committed the offences under Sections 376 and 506(i) IPC.

3.The respondent police has laid the charge sheet before the learned Judicial Magistrate, Sholingar.

4.The trial Court, based upon the evidence, convicted the petitioner for the offence under Section 376(1) IPC and sentenced him to undergo ten years rigorous imprisonment and imposed to pay a fine of Rs.5,000/- (Rupees Five Thousand Only) in default to undergo one month simple imprisonment and for the offence under Section 417 IPC, sentenced him to pay a fine of Rs.1,00,000/- (Rupees One Lakh Only) in default to undergo simple imprisonment for the period of one month.

5.Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and perused the materials available on record carefully.

6.The learned Government Advocate (Crl.Side) appearing for the respondent submitted that three months prior to 04.04.2011, at Polipakkam Village, Arakkonam Taluk, in the residence of witness Priya, the accused forcefully committed rape upon the witness Priya without her consent and in the course of the same transaction, the accused criminally intimidated her not to disclose the matter to others and after the first rendezvous, he continued his physical relationship with prosecutrix on several occasions and it was proved before the trial Court through Exs.P.1 to P.11, and evidence of P.W.1 to P.W.7 thereupon.

7. The date of the alleged offence is 04.04.2011 i.e., before coming into force of Protection of Children from Sexual Offences Act, 2012. After going through the evidence available on record and also taking note of Ex.P.4, DNA report marked through P.W.3, Scientific Officer, who had deposed that the female child born to P.W.1, victim girl and P.W.1 is the biological mother and the accused is the biological father and also taking note of the evidence of P.W.4, Doctor, who had deposed regarding the medical evidence and examined the victim girl, after the occurrence and considering the medical evidence of P.W.3 and P.W.4 coupled with Ex.P.4 DNA report and Ex.P.5 medical report of P.W.1, I am not inclined to suspend the sentence given by the trial Court in S.C.No.61 of 2014, dated 26.03.2018.

8.Therefore, this Criminal Miscellaneous Petition is dismissed for the present. However, the petitioner is at liberty to move an application in future.

-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 SESSIONS JUDGE, MAGALIR NEETHI MANDRAN,
FAST TRACK MAHILA COURT, VELLORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE INSPECTOR OF POLICE,
BANAVARAM POLICE STATION,
VELLORE DISTRICT.

C.C. to M/S.K.BALU Advocate on payment of necessary charges

Order

in

CRL MP.14360/2018

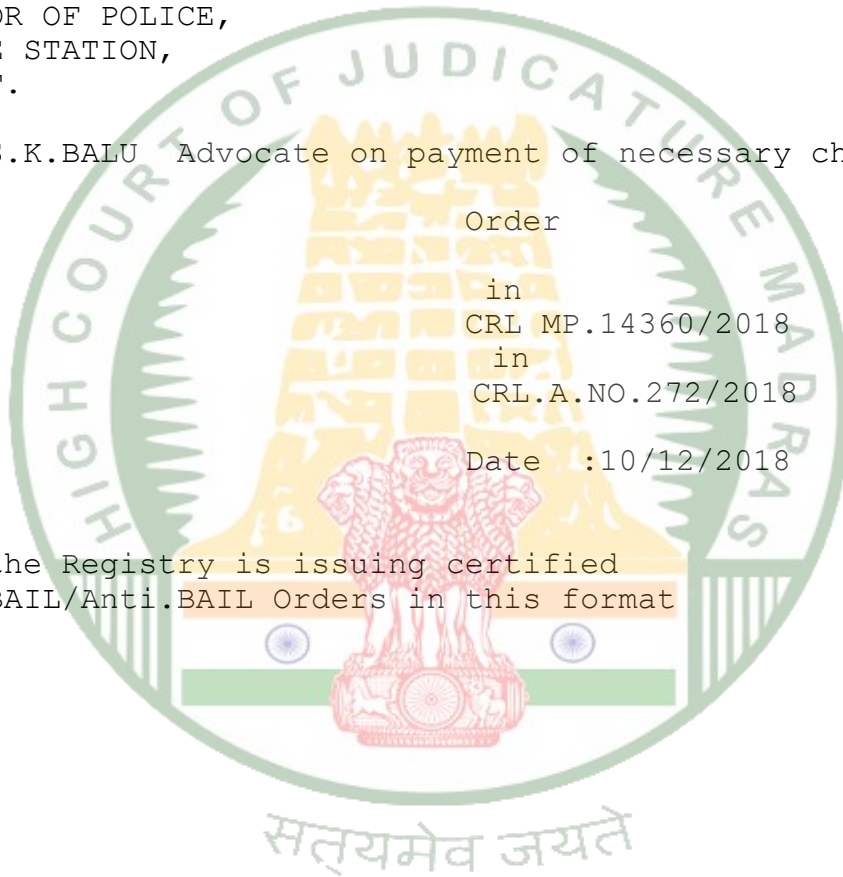
in

CRL.A.NO.272/2018

Date :10/12/2018

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TA-04/01/2019



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