



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Monday, the Twenty Third day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP (MD) No.3165 of 2018

IN

CRL A (MD) No.195 of 2018

PRASATH

... PETITIONER/FATHER OF THE
APPELLANT

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
RAMESWARAM,
RAMANATHAPURAM DISTRICT,
CRIME NO.7/2012

... RESPONDENT/COMPLAINANT

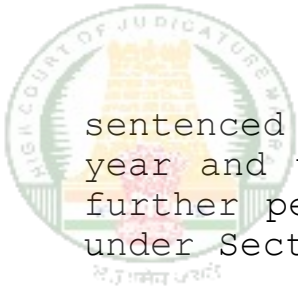
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence the conviction and sentence passed by the Learned Principal District Judge cum Fast Track Court, Ramanathapuram made in S.C.No.56/2014 dated 09/03/2018 pending disposal of the above Crl.A

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.L.RAJIAH, Advocate for the petitioner and of MR.K.SUYAMBULINGA BHARATHI, Government Advocate (Crl.Side) the court made the following order:-

Petitioner is represented by Mr.L.Rajiah, learned counsel and the State is represented by Mr.K.Sumbulinga Bharathi, learned Government Advocate.

2.This petition has been filed to suspend the sentence and the conviction imposed by the learned Principal District Judge cum Fast Track Court, Ramanathapuram in S.C.No.56 of 2014, dated 09.03.2018 pending disposal of the above criminal appeal.

3.On the side of the petitioner, it is represented that the petitioner was sentenced to undergo rigorous imprisonment for a period of 7 years and to pay a fine amount of Rs.26,000/-, in default to undergo further period of 1 year rigorous imprisonment for the offence under Section 376 I.P.C., and



sentenced to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.5,000/-, in default to undergo a further period of 3 months simple imprisonment for the offence under Section 417 I.P.C.

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4.The allegation against the petitioner is that 11 months prior to 14.09.2012, the petitioner induced the complainant with false promise of marriage, raped the complainant, thereby, the complainant become pregnant and she gave birth to a baby girl on 14.09.2012.

5.On the side of the petitioner, it is further stated that commission of an offence is not clearly stated and the petitioner has admitted in her evidence that the complainant is also a consenting party. The mother of the complainant stated that the offence was committed before two years to the date of complaint and there is a contradiction regarding the time of offence from the evidence of witnesses. The complainant has failed to file the complaint immediately after the occurrence, but only after the birth of the female child, the complainant has come forward with this petition. The offence is not made out and the appellant is having good grounds on appeal and prayed the sentence to be suspended till the disposal of the appeal.

6.On the side of the prosecution, it is stated that the prosecution examined 15 witnesses and marked 10 documents. The evidence of P.W.1., the victim is very clear and the same is supported by the evidence of P.W.13 and the DNA test report reveals that the complainant and the appellant are the biological parents of the female child. The appellant is in custody only for 35 days and the fine amount was already paid by the appellant.

7.Records perused.

8.The learned Principal District Judge cum Fast Track Court, Ramanathapuram, has come to the conclusion that the appellant has committed the offence on the basis of the evidence of P.W.1. and P.W.13 and on the basis of the DNA test report. Whether the appellant is having sufficient grounds for re-consideration of the judgment is to be decided in the main appeal.

9.In the above circumstances, the appellant is in custody only for the past 35 days and at this stage this Court is not inclined to suspend the sentence of the appellant herein. Hence, this petition is dismissed.



10. The Registry is directed to call for the records from the lower Court, and prepare the typed set of papers for hearing.

11. Call the main appeal after vacation.

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sd/-
23/04/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

MM
TO

- 1 THE PRINCIPAL DISTRICT JUDGE
CUM FAST TRACK COURT, RAMANATHAPURAM
- 2 THE JUDICIAL MAGISTRATE, RAMESWARAM
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
RAMANATHAPURAM DISTRICT
- 4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, RAMESWARAM,
RAMANATHAPURAM DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 6 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI

COPY TO : THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

GJM/PMI/GSR/11.5.18-3P-8C

ORDER
IN
CRL MP (MD) No.3165 of 2018
IN
CRL A (MD) No.195 of 2018
Date : 23/04/2018