



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

Tuesday, the Twenty Sixth day of June Two Thousand Eighteen

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP (MD) No.4273 of 2018

IN

CRL A (MD) No.269 of 2018

KARTHIK

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KULITHALAI, KARUR DISTRICT,
IN CR NO. 04/2016.

... RESPONDENT/RESPONDENT

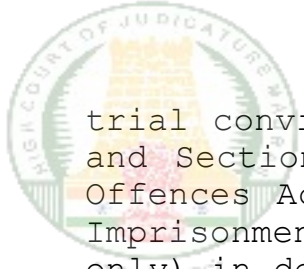
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed against the petitioner by the Learned Additional Sessions Judge, Karur in Spl.S.C.No.3/2017 dated 17/11/2017 pending disposal of the above Crl.A

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.P.KRISHNASAMY, Advocate for the petitioner and of MR.M.CHANDRASEKARAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

Heard Mr.P.Krishnasamy, learned counsel appearing for the petitioner and Mr.M.Chandrasekaran, learned Additional Public Prosecutor appearing for the respondent.

2.This Petition is filed to suspend the sentence passed against the petitioner imposed by the learned Additional Sessions Judge, Karur in Special S.C.No.3 of 2017 dated 17.11.2017 pending disposal of the Criminal Appeal.

3.The offence alleged against the petitioner is that on 15.08.2016, the petitioner misbehaved with the minor girl. On 23.08.2016, the petitioner kidnapped the minor girl and threatened her and raped her, which is punishable under Sections 366(A) and 506 (1) of IPC and Section 5(1) r/w. 6 of the Protection of Children from Sexual Offences Act. The trial Court, after completion of the



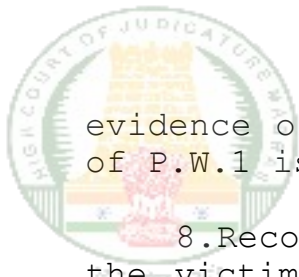
trial convicted the accused under Sections 366(A) and 506(i) of IPC and Section 5(1) r/w. 6 of the Protection of Children from Sexual Offences Act and he was sentenced to undergo ten years of Rigorous Imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment for the offence under Section 366(A) of IPC and was sentenced to undergo one year simple imprisonment for the offence under Section 506(i) of IPC and was sentenced to undergo ten years of Rigorous Imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment for the offence under Section 5(1) r/w. 6 of the Protection of Children from Sexual Offences Act.

4. On the side of the petitioner, it is stated that the occurrence is said to have taken place on 15.08.2016, but the complaint was lodged only on 25.08.2016 and the delay is not explained. It is further stated that no complaint was lodged regarding the alleged incident that took place during May 2016. It is further stated that the occurrence took place on 15.08.2016 and the second incident took place on 23.08.2016 and that only with the consent of the victim, the petitioner took her to the temple. It is not true that the petitioner took her to any forest area. P.W.1 has admitted that when she was kidnapped by the petitioner, she did not try to escape from the two wheeler driven by the petitioner and she did not even cried for help. It is stated that the evidence of P.W.21 Doctor reveals that there is no injury or no complaint of pain by P.W.1. It is further stated that the petitioner is 25 years old-man having two school going children and he is the only breadwinner of the family and he prayed for the release of the petitioner on bail.

5. On the side of the respondent, it is stated that the petitioner is convicted under Sections 366(A) and 506(i) of IPC and under Section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act. The victim girl is aged about 13 years, studying 9th standard. On 15.08.2016, she was kidnapped from the temple into the forest area and the petitioner threatened her and committed the offence on 15.08.2016. Again on 23.08.2016, he threatened her and took her to his house and committed the offence again. Evidence of P.W.s.11 and 13 to 16 corroborated the evidence of P.W.1. The evidence of P.W.1 is sufficient enough to convict the petitioner.

6. On the side of the petitioner, it is further argued that the victim has not attained puberty and that the petitioner is puchari at the temple and there is a dispute between the petitioner and the victim family regarding the right of puchari at the temple and the false case foisted against the petitioner.

7. On the side of the respondent, it is stated that the victim was kidnapped by the petitioner and the petitioner committed sexual assault on the victim girl. It is further stated that there is no question of consent as the victim is only a minor girl and the



evidence of Doctor reveals that the hymen is ruptured. The evidence of P.W.1 is corroborated by the evidence of P.Ws.11, 13, 16 and 21.

8. Records perused. It is stated that only with the consent of the victim the petitioner took her to the temple and just because the victim travelled with the petitioner on consent she did not raise alarm or cried out for help. The victim is a minor girl, due to fear she did not raise alarm is the contention of the prosecution. Whether the petitioner is having valid points for considering his acquittal in the appeal can be decided only after hearing the arguments on both sides. Considering the marital status of the petitioner and considering the age of the victim girl and also considering the grave nature of the offence, this Court is not inclined to suspend the sentence imposed upon the petitioner at this stage and hence, this petition is dismissed.

sd/-
26/06/2018

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

TO

- 1 THE ADDITIONAL SESSIONS JUDGE, KARU.
- 2 THE JUDICIAL MAGISTRATE NO.I, KULITHALAI
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARURU DISTRICT.
- 4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KULITHALAI,
KARUR DISTRICT.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY
- 6 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.4273 of 2018
IN
CRL A (MD) No.269 of 2018
Date : 26/06/2018

PK/CM-VR/SAR-1/02.07.2018 : 2P/7C