



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

Friday, the Ninth day of November Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

WEB COPY

CRL MP(MD) No.8928 of 2018
IN CRL A(MD) No.493 of 2018

VADIVEL MURUGAN

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
R.S. MANGALAM POLICE STATION,
RAMNAD DISTRICT.
CRIME NO.2/2013

... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of Imprisonment imposed by the learned Principal District and Sessions Judge, (FAC) Fast tack mahila court, Ramanathapuram in SC NO. 81/2014 dated 04.07.2018 enlarge the petitioner /appellant on bail, pending disposal of the above said Criminal Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

The petitioner is arrayed as the sole accused in S.C.No.81 of 2014 on the file of the learned Principal District and Sessions Judge, (Fast Track Mahila Court), Ramanathapuram and under judgment, dated 04.07.2018, he has been convicted for offence Section 376, 307 and 307 read with 511 of IPC and sentenced as follows:

Offence	Sentence
376 IPC	10 years R.I. and fine of Rs.25,000/- i/d 1 year R.I.
307 IPC	10 years R.I. and fine of Rs.20,000/- i/d 1 year R.I.
307 r/w 511 IPC	1 ½ years R.I. and fine of Rs.1,000/-i/d 1 week S.I.

The petitioner has come forward with the above miscellaneous petition, seeking relief of suspension of sentence pending appeal.

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

2.The learned counsel for the petitioner/appellant would submit that the evidence of P.W.1 does not inspire evidence and such



being so, the trial Court erred in convicting the petitioner/appellant. He would further submit that in the Accident Register, wherein, at the time of admission to the hospital, it has been stated by P.W.1 that it is only assault with an attempt to rape by an unknown person, whereas, the petitioner and the defacto complainant are resident of same village and known to each other. Further, it is the evidence of the Doctor, who is an independent witness that there are no injuries found on the private parts of P.W.1 and that there is no symptoms of rape. Further, the evidence of P.W.1 with regard to attempt murder has also not been corroborated by the other witness. It is also submitted that there are other valid grounds in the appeal. He would also submit that the trial Court having convicted the petitioner/appellant for the offence under Section 307 ought not to have convicted the petitioner for the offence under Section 307 read with 511 IPC.

3.The learned counsel for the petitioner further pointed out that certain infirmities and inconsistencies in the prosecution case and also certain contradictions in material particulars between the evidence of prosecution witnesses and there are arguable points involved in this appeal and further the appeal is not likely to be taken up for final hearing in the near future.

4.The learned Government Advocate vehemently opposed the bail, stating that there are enough materials available on record for implicating the petitioner herein.

5.I have carefully considered the rival contentions put forward by either side and also perused the impugned judgment of conviction. This Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he executes a bond for a sum of Rs.5,000/- (Rupees Five Thousand only) with two sureties each for a like sum to the satisfaction of the Principal District and Sessions Judge, (Fast Track Mahila Court), Ramanathapuram and on further condition that the petitioner shall appear before the said Court on the first working day of every English Calendar month at 10.30 a.m. until further orders.

7.Accordingly, this petition is ordered.

sd/-

09/11/2018

/ TRUE COPY /



TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK MAHILA COURT), RAMANATHAPURAM.

2. THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
THIRUVADANAI.

3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.

4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

5. THE INSPECTOR OF POLICE,
R.S. MANGALAM POLICE STATION, RAMNAD DISTRICT.

6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.S.RAMACHANDRA PRADEEP Advocate SR.No.21382

ORDER

IN

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IN

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Date :09/11/2018

MS/MMS/SAR-3/13.11.2018/3P.8C