

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Sixth day of June Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.7352 of 2019

in CRL A.No.326 of 2019

SHANMUGAM

[PETITIONER/APPELLANT]

Vs

STATE BY

[RESPONDENT]

INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AT VRIDHACHALAM.
CRIME NO.261 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.No.326 of 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence passed by judgment in SPL S.C.No.64 of 2018 on the file of Mahila Court, Cuddalore, by judgment dated 16.04.2019 and enlarge the petitioner on bail pending disposal of CRL A.No.326 of 2019

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.No.326 of 2019 on the file of the High Court and upon hearing the arguments of M/S.A.RAJAKUMAR, Advocate for the petitioner, and of M/S.G.RAMAR Govt.Advocate on behalf of the Respondent, the court made the following order:-

The petitioner has been convicted and sentenced in Special S.C.No.64 of 2018 for various offences under the Indian Penal Code (IPC) and Protection of Children from Sexual Offences Act, 2012 (POCSO Act), maximum being 10 years of Rigorous Imprisonment under Section 366 IPC.

2. The learned counsel for the petitioner contended that there is a delay of 3 days in the registration of an FIR and that the medical certificate also does not show that there was sexual assault and no identification parade was conducted.

3. On perusing the evidence of the victim girl, it is seen that she was 11 years old and studying 5th std, when the incident had taken place. The accused was 40 years old and married man. When the

accused came in a motorbike, the victim girl asked for lift from her school. While giving lift, the accused took the victim girl to a nearby casurina grove and subjected her to sexual assault. The accused was under the influence of liquor. When the victim girl raised a hue and cry, P.W.3 and P.W.4 caught hold of the accused and thrashed him.

4. In a case of this nature, there is no necessity to conduct identification parade. That apart, the delay in registration of FIR in a case involving child abuse, is not always fatal. Hence, this Court does not find sufficient reason to suspend the sentence and release the petitioner on bail. Accordingly, this Criminal Miscellaneous Petition is dismissed.

-sd/-
26/06/2019

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 JUDGE
THE MAHILA COURT, CUDDALORE

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AT VRIDHACHALAM

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

C.C. to M/S.A.RAJAKUMAR Advocate on payment of necessary charges

Order
in
CRL MP.7352/2019
in
CRL A.326/2019
Date :26/06/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cm 04/07/2019