

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Second day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.8947 of 2019

IN CRL A.408/2019

1 N.VEERENDRAN

[APPELLANTS]

2 SANTHOSH

Vs

THE STATE REP.BY

[RESPONDENT]

INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DENKANIKOTTAI,
KRISHNAGIRI DISTRICT.
CR.NO.26 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.408/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of 10 years rigorous imprisonment imposed by the District Judge, Magalir Neethi Mandram (Fast Track Mahila Court, Krishnagiri) dated 05.02.2019 in S.C.No.171 of 2016 enlarge him on bail pending CRL A.408/2019 [IN CRL.MP.NO.8947 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.408/2019 on the file of the High Court and upon hearing the arguments of M/S.R.BHARATH KUMAR, Advocate for the petitioner and of M/S. KRITIKA KAMAL P, Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

It is the case of the prosecution that the petitioners (A1 and A2) had ravished the mentally challenged victim girl 'X', who was aged about 19 to 20 years. On this allegation, the petitioners faced trial in S.C.No.171 of 2016 before the Mahila Court, Krishnagiri and were convicted and sentenced as follows :

<i>Rank of the accused</i>	<i>Provision under which convicted</i>	<i>Sentence</i>
Veerendran/A1	Section 354B IPC	Four years rigorous imprisonment and fine of Rs.10,000/- in default, to undergo 6 months rigorous imprisonment
	Section 376 (1) IPC	Ten years rigorous imprisonment and fine of Rs.15,000/- in default, to undergo 1 year rigorous imprisonment
Santhosh/A2	Section 342 IPC	One year rigorous imprisonment and fine of Rs.1,000/- each in default, to undergo 1 month simple imprisonment
	Section 376 (1) read with 109 IPC	Ten years rigorous imprisonment and fine of Rs.5,000/- in default, to undergo 6 months rigorous imprisonment

Challenging the aforesaid conviction and sentence, the petitioners have preferred the present appeal.

2.Learned counsel for the petitioners brought to the notice of this Court that though the victim girl was said to be mentally challenged, in her evidence, she has clearly stated that she was tutored by the police to depose against the petitioners. He also contended that the victim girl's mother Famitha (PW1), who was the de facto complainant, herself turned hostile to the case of the prosecution and had stated that a false case was given against the petitioners, since she had a quarrel with them while drawing water in the common pump; similarly, PW2 to PW7, who were the neighbours also turned hostile.

3.Per contra, learned Government Advocate (Crl. Side) submitted that medical evidence shows that there was a contusion in the thigh of the victim.

4.This Court perused the evidence of the victim girl as well the evidence of her mother (PW1) and others. There are *prima facie* materials to infer that the case was foisted on the petitioners due to previous enmity.

5.Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioners that there are several infirmities in the prosecution case and that there are arguable points involved in the appeal and further, the appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioners herein are entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioners are ordered to be released on bail on they executing a bond individually for a sum of Rs.10,000/- each, with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Krishnagiri and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

(ii) the petitioners shall appear before the trial Court at 10.30 a.m. on the first working day of every month until the disposal of the appeal and if they are not able to appear before the trial Court on any day, they shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the trial Court on any other day in lieu of the date of their absence, as directed by the trial Court.

-sd/-
22/07/2019

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 DISTRICT JUDGE,
MAGALIR NEETHI MANDRAM
[FAST TRACK MAHILA COURT, KRISHNAGIRI]

2 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
KRISHNAGIRI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DENKANIKOTTAI,
KRISHNAGIRI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2C.C. to M/S.R.BHARATH KUMAR Advocate on payment of
necessary charges SR NO.15112

Order

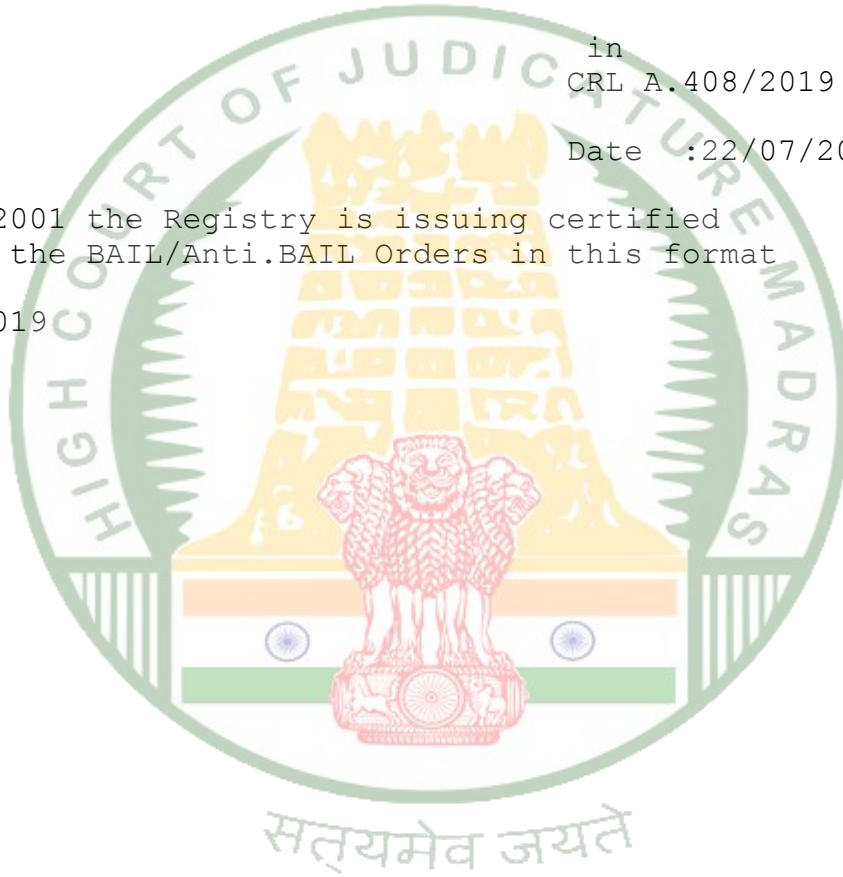
in
CRL MP.8947/2019

in
CRL A.408/2019

Date :22/07/2019

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MK:23/07/2019



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