

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

CRIMINAL MISCELLANEOUS PETITION No.10114 of 2019

IN CRL A.123/2019

IRFAN

[PETITIONER]

Vs

STATE REP BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KRISHNAGIRI.
CR.NO.199/2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the sentence passed by the Sessions Judge, Fast Track Mahila Court at Krishnagiri in Spl.S.C.No.43/2015 dated 20.11.2018, and under section 366 (A) read with section 109 of the Indian Penal Code, for the rigorous imprisonment of five years and to pay a fine of Rs.2,500 in default to undergone imprisonment of six months against the petitioner herein and to enlarge the petitioner on bail pending disposal of the present Criminal Appeal No.123/2019.

Order : This petition coming on for orders upon perusing the petition and the filed in support thereof and upon hearing the arguments of M/S.SUTHAN K., 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 Shajahan (A1), aged about 24 years had enticed the victim girl "X", aged about 14 years and had committed penetrative sexual assault. It is further alleged that Irfan (A2), the petitioner herein had abutted the offence. On these allegations, Shajahan (A1) and Irfan (A2) were tried in Spl.C.C.No.43 of 2015 and were convicted on 20.11.2018. Shajahan (A1) was convicted of the offences under Section 5(1) r/w Section 6 of the Prevention of Children from Sexual Offences Act, 2012 and sentenced to undergo 10 years rigorous imprisonment, whereas, Irfan (A2) was convicted of the offences under Section 366A read with Section 109 IPC and sentenced to undergo 5 years rigorous

imprisonment. Challenging the said conviction and sentence, Irfan (A2) has filed the present appeal and is seeking suspension of sentence and bail.

2.Learned counsel for the petitioner submitted that Irfan (A2) is in custody, since 20.11.2018. He has also brought to the notice of this Court Section 164 Cr.P.C. statement of the victim girl, wherein, she has not implicated Irfan (A2). However, learned Government Advocate (Crl. Side) submitted that in the Section 164 Cr.P.C. statement of the victim girl, she has stated that brother of Shajahan (A1) had given a send off to both of them.

3.This Court carefully perused the evidence of the victim girl, in which, she has stated that Shajahan (A1) and the victim girl went to the footwear shop of Imran (A2), where slippers were purchased by Shajahan (A1) and thereafter, Imran (A2) is said to have given a send off to both of them. However, the allegations against Shajahan (A1) are indeed very serious and his case is not on the same footing, as that of Irfan (A2).

4.Considering the facts and circumstances of the case and also considering the submission of the learned counsel for the petitioner 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 petitioner herein is entitled to the relief of suspension of sentence.

5.Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) 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 Magistrate may obtain a copy of their Aadhaar card or Bank pass Book to ensure their identity.

(ii) the petitioner 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 he is not able to appear before the trial Court on any day, he 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 his absence, as directed by the trial Court.

-sd/-

24/07/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)

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High Court, Madras - 600 104.

TO

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KRISHNAGIRI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.SUTHAN K. Advocate on payment of necessary
charges SR.NO.15251

Order

in
CRL MP.10114/2019

in
CRL A.123/2019

Date :24/07/2019

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TA-01/08/2019

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