

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourteenth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13425 of 2019

IN CRL A.622/2019

SATHEESKUMAR

[PETITIONER / APPELLANT]

Vs

THE STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
METTUPALAYAM POLICE STATION,
METTUPALAYAM,
COIMBATORE DISTRICT.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL A.622/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence of conviction order passed in S.C.No.176/2017 on the file of the learned Sessions Judge, Mahila Court Mahalir Neethimandram, Coimbatore order dated 26.07.2019 against me pending disposal of the above CRL A.622/2019 [IN CRL.MP.NO.13425 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL A.622/2019 on the file of the High Court and upon hearing the arguments of M/S.N.CHINNARAJ, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:--

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioners/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment of conviction and sentence, dated 26.07.2019, made in S.C.No.176/2017, by the Sessions Judge, Mahila Court, Mahalir Needhimandram, Coimbatore, pending disposal of the Criminal Appeal.
- 2.This court heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and also perused the materials placed on record.

3. In and by the impugned judgement of the Trial Court, the petitioner/Accused was convicted and sentenced for the offences under Section 366(A) of IPC, to undergo Ten Years Rigorous Imprisonment and to pay a fine of Rs.1000/- in default to undergo One Year Rigorous Imprisonment and under Section 9 of the Prohibition of Child Marriage Act, 2006, to undergo Six Months Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo Six Months Rigorous Imprisonment. Aggrieved against the same, the petitioner/Accused has preferred this appeal.
4. The brief facts of the case is that the victim girl/P.W.2, aged about 13 years was residing along with her parents at Mahadevapuram in Mettupalayam and was studying 9th Standard in Mahajana Higher Secondary School at Mettupalayam and that on 27.11.2012 at about 9.00 hours when the victim girl was on her way to school, the petitioner/accused way laid her at Mahadevapuram knowing that she is a minor and made her to accompany him on the false pretext that he would marry her and that he has tied Thali at a Temple neat Annur Bus Stand and on that belief, she has also accompanied him to Gurunanthur Village at Gopi and thereby, the petitioner/accused Satheesh kumar, convicted for having kidnapped the victim minor girl without the consent of her parents for the purpose of marriage.
5. The learned counsel for the petitioner would submit that the charges against the petitioner/accused was for offences under Section 366(A) of IPC and Section 9 of the Prohibition of Child Marriage Act, 2006 and that even taking into consideration the evidence of P.W.2, an offence under Section 366(A) of IPC cannot be made out. Even as per the prosecution case, there is no evidence to prove that the petitioner induced the victim to go from any place or to do it any act with intend that such girl may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person and that when the charges have not been proved by the prosecution, the Trial Court erred in convicting the petitioner. He would further submit that no independent witness has been examined and no evidence had been let in to prove the marriage. Further, he would submit that admittedly, no sexual assault has not been made on the victim girl and that the accused is now confined in the Central Prison, Coimbatore, from the date of conviction.
6. The learned Additional Public Prosecutor would submit that the prosecution has proved its case by examining the evidence of P.Ws.1 to 9 and proved the case beyond all reasonable doubts, the Trial Court has rightly convicted the petitioner/accused and that he has raised objection for suspending the sentence.

7.I have gone through the evidence on record, the petitioner has been charged for the offence under Section 366-A of IPC and no independent witness have been examined. There seems to be force in the arguments. The learned counsel for the petitioner has made out grounds for grant of suspension of sentence.

8.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the petitioner/accused is ordered to be enlarged on bail, on the following conditions:-

- i. The petitioner/accused shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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, Mahila Court, Mahalir Needhimandram, Coimbatore.
- ii.The petitioner/accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.
- iii.The petitioner/accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition 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 of Cr.PC. 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/-
14/11/2019

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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 SESSIONS JUDGE,
MAHILA COURT, MAHALIR NEETHIMANDRAM,
COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
METTUPALAYAM POLICE STATION,
METTUPALAYAM,
COIMBATORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1C.C. to M/S.N.CHINNARAJ Advocate on payment of necessary
charges SR NO.23431

Order

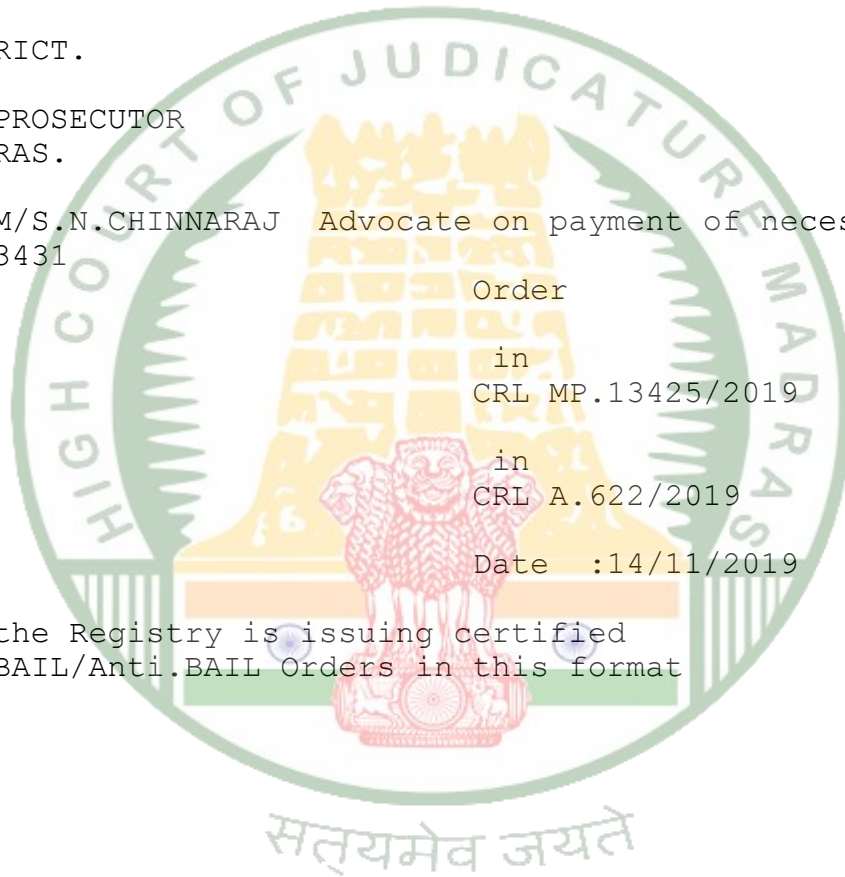
in
CRL MP.13425/2019

in
CRL A.622/2019

Date :14/11/2019

From 7.2.2001 the Registry is issuing certified
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MK:18/11/2019



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