

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Thirteenth day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.16342 of 2019

in CRL.A.NO.763 OF 2019

RAJA @ RAJAN

[PETITIONER]

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UDHAGAMANGALAM,
NILGIRI DISTRICT,
(CRIME NO.1 OF 2015).

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Appeal No.763/2019 on the file of the High Court, the High Court will be pleased to suspend the sentence made in S.C.No.30 of 2016 dated 29.03.2019 passed by the Sessions Judge of Mahalir Neethimandram (FTMC), Udhagamandalam at Nilgiris pending disposal of the above appeal.[CRL.MP.NO.16342/2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl. Appeal No.763/2019 on the file of the High Court and upon hearing the arguments of M/S. S.SARATH CHANDRAN, Advocate for the petitioner and of MR.M.MOHAMED RIYAZ,ADDL.PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This Criminal Miscellaneous Petition has been filed by the petitioner/accused, seeking suspension of sentence of imprisonment, imposed by the judgment, dated 29.03.2019, made in Special S.C.No.30 of 2016, by the learned Sessions Judge of Mahalir Neethimandram, [Fast Track Mahila Court], Udhagamandalam, Nilgiris, pending disposal of the Criminal Appeal.

2. This Court heard the learned counsel on either side and also perused the materials placed on record.

3. In and by the impugned judgement, the petitioner/accused was convicted and sentenced for the offences as under:

S.No.	Conviction	Sentence
1.	U/s.354 of IPC	Three years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo two months simple imprisonment.
2.	U/s.450 of IPC	Three years rigorous imprisonment and to pay a fine of Rs.2,000/- in default to undergo two months simple imprisonment.

4. The learned counsel for the petitioner/accused would submit that the Trial Court had failed to take into consideration the delay in FIR being registered and that though, the petitioner was charged for the offences under Section 376 of IPC, finding that the medical evidence did not support the case of the prosecution, had acquitted the petitioner and alternatively convicted him for offences under Section 354 of IPC. He would submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the petitioner/ accused has got a fair chance of succeeding in the Criminal Appeal and that and hence, the substantive sentence imposed against the petitioner/accused may be suspended. He would submit that the petitioner was on bail during trial and the trial Court has suspended the sentence till 18.11.2019.

5. The learned Additional Public Prosecutor has raised objections for suspending the sentence stating that the prosecution has proved its case beyond reasonable doubt and the Trial Court has rightly convicted the petitioner.

6. 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, each for a like sum to the satisfaction of the learned Sessions Judge of Mahalir Neethimandram, [Fast Track Mahila Court], Udhamandalam, Nilgiris.

- ii. The petitioner/accused shall report before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

-sd/-

13/11/2019

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 SESSIONS JUDGE OF
MAHALIR NEETHIMANDRAM[FAST TRACK MAHILA
COURT]UDHAGAMANDALAM, NILGIRIS

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
UDHAGAMANGALAM,
NILGIRI DISTRICT,

+1 C.C. to M/S. S.SARATH CHANDRAN Advocate on payment of
necessary charges SR.NO. 23364

Order

in
CRL MP.16342/2019

in CRL.A.NO.763 OF 2019

Date :13/11/2019

From 7.2.2001 the Registry is issuing certified
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RD 13/11/2019