



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Twenty Fourth day of April Two Thousand Nineteen

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.2191 of 2019

IN

CRL RC (MD) No.126 of 2019

DHAVAMANI

... PETITIONER/ PETITIONER

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
IN CRIME NO.4/2007

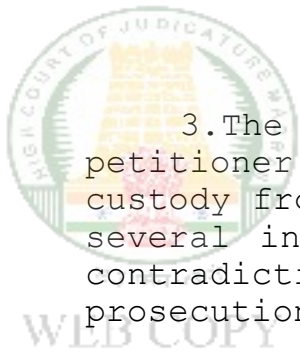
... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Principal Sessions Court, Virudhunagar District at Srivilliputhur in Crl.A.No.121/2010 on 01/09/2016 in confirming the conviction and sentence imposed by the Court of Judicial Magistrate, Aruppukottai, Virudhunagar District in C.C.No.75/2008 on 25/10/2010 and release the petitioner on bail pending disposal of the above Crl.R.C.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.M.JOTHI BASU, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

The petitioner has been convicted for the alleged offence under Section 417 of I.P.C., sentenced to undergo rigorous imprisonment for a period of one year and fine of Rs.1,000/-, in default to undergo simple imprisonment for a period of one month in C.C.No.75 of 2008, on the file of the learned Judicial Magistrate, Aruppukottai, Virudhunagar District.

2.The learned Principal Sessions Judge, Virudhunagar District at Srivilliputtur, confirmed the conviction and sentence and dismissed the Criminal Appeal No.121 of 2010, dated 01.09.2016.



3.The learned counsel for the petitioner would submit that the petitioner has already been arrested and remanded in judicial custody from 29.01.2019. He would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

4.The learned Government Advocate (Crl.side) appearing for the State would submit that due to love affairs, the accused had sexual intercourse with the victim girl, hence, a baby was born. He would further submit that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record. Since there are certain infirmities and inconsistencies in this case and also certain contradictions in material particulars, the fact remains that there are arguable points involved in this criminal revision and further this criminal revision is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

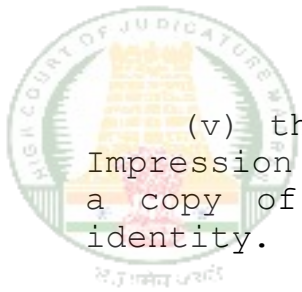
6.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the revision on the following conditions:-

(i)the petitioner is directed to be enlarged on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of learned Judicial Magistrate, Aruppukottai.

(ii)the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m pending revision.

(iii)the petitioner is directed to deposit a sum of Rs.50,000/- (Rupees fifty thousand only) before the trial Court within a period of two weeks from the date of receipt of copy of this order. After such deposit, the trial Court shall accept the sureties furnished by the petitioner.

(iv)on such deposit being made, the trial Court is directed to deposit the compensation amount in any one of the Nationalised Banks, in a Fixed Deposit scheme, till they attain majority. The victim girl/P.W.1, who is the mother and guardian of her child, is permitted to withdraw the accrued interest once in three months directly from the bank, only for the welfare of child;



(v) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

sd/-

24/04/2019

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE PRINCIPAL SESSIONS JUDGE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.
 2. THE JUDICIAL MAGISTRATE, ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
 3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILIPUTTUR.
 4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
 5. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT.
 6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to M/S.G.M.LAW OFFICE, Advocate, Sr No.7184

ORDER

IN

CRL MP (MD) No.2191 of 2019

IN

CRL RC (MD) No.126 of 2019

Date : 24/04/2019

MS/PN/SAR-3/26.04.2019/3P.8C