



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

Thursday, the First day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.6305 of 2019
IN
CRL A(MD) No.529 of 2018

SAMPOORNALINGAM @ SAMBULINGAM @ RAJKUMAR ... PETITIONER/APPELLANT

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KULITHALAI,
KARUR DISTRICT.
CRIME NO.07/2016

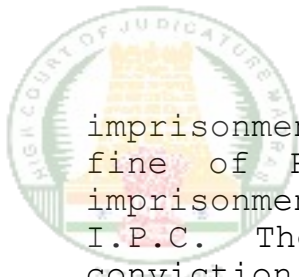
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to Suspend the sentence Execution of sentence of granting bail in SC.NO.03/2018 dated 10/07/2018 on the file of the Learned Additional Sessions Court, Karur till the disposal of the Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.KRISHNAVENI, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of this Court was made by **M.SATHYANARAYANAN, J**)

The petitioner/appellant is the sole accused in S.C.No.3 of 2018 on the file of the Court of Additional Sessions Judge, Karur and he was tried for the commission of offences under Sections 448 and 376(2)(L) I.P.C. The trial Court under the impugned judgment dated 10.07.2018 has found him guilty for the commission of offences under Sections 448 and 376(2)(L) I.P.C. and sentenced him to undergo one year simple imprisonment for the commission of offence under Section 448 I.P.C. and also sentenced to undergo rigorous



imprisonment for the remaining period of natural life and to pay a fine of Rs.1,000/- with default sentence of one month simple imprisonment for the commission of offence under Section 376(2)(L) I.P.C. The petitioner, challenging the legality of the said conviction and sentence, preferred the present appeal and pending appeal, filed the present petition seeking suspension of the substantive sentence of imprisonment.

2.The learned counsel appearing for the petitioner would submit that the victim was aged 38 years and as per the evidence of P.W.14, who assessed the mentality of the victim, though she was 38 years, she has the mental capability of 8 years and 2 months and her understanding capability is only 51% and P.W.16, who examined the victim girl would state that she found torn of the hymen and she did not notice any injury and therefore, it cannot be stated that she was physically abused by the accused and since the petitioner is having a bright chance of success in this appeal, prays for suspension of the substantive sentences of imprisonment.

3.Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that the victim girl deposed about the physical abuse on the part of the accused and after committing the offence the accused fled away from the scene of occurrence and it was seen by P.Ws.2 to 4 and 7 and the materials placed corroborates each other and the points urged by the learned counsel appearing for the petitioner can be appreciated only at the time of final disposal and hence, prays for dismissal of this petition.

4.This Court has carefully considered the rival submissions and also perused the materials placed before it including the impugned judgment.

5.A perusal of the impugned judgment would prima-facie disclose that P.W.15 was subjected to forcible physical abuse and during the course of such act she raised alarm and P.Ws.2 to 4 and 7 rushed to the spot and saw the accused fleeing away from the scene of occurrence and P.W.16, who examined the victim noticed that her hymen was torn and though she did not notice any injury, it is to be pointed out that the alleged occurrence took place on 03.11.2016 and the victim girl was examined only on 06.11.2016. In the considered opinion of this Court, the points urged by the learned counsel appearing for the petitioner can be appreciated only at the time of final disposal of this appeal and it is not a fit case, where the petitioner is entitled to suspension of substantive sentence of imprisonment.



6.In the result, this Criminal Miscellaneous Petition is dismissed. The Registry is directed to prepare the typed set of documents and expedite the final disposal of the Criminal Appeal.

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01/08/2019

/ TRUE COPY /

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

TO

- 1.THE ADDITIONAL SESSSIONS JUDGE, KARUR
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KULITHALAI, KARUR DISTRICT.
- 3.THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.6305 of 2019
IN
CRL A(MD) No.529 of 2018
Date :01/08/2019

SJ
PK/JC/SAR-4/08.08.2019 : 3P/5C