



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

Thursday, the Twenty Third day of July Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM
and
The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.1149 of 2020

IN

CRL A(MD) No.20 of 2020

N.KANNAN

... PETITIONER/APELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANGUNERI,
TIRUNELVELI DISTRICT.
CRIME NO.19/2015

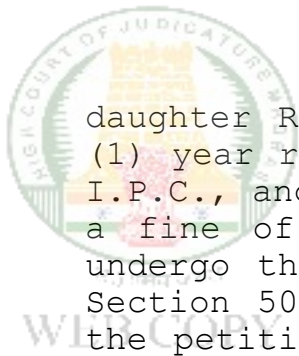
... RESPONDENT/ RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Execution of sentence by granting bail in S.C.No. 831/2016 on file of the Session Judge / Mahalir Neethimandram, Tirunelveli District, dated 30.09.2019, till the disposal of the Criminal Appeal and to render justice.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.KATHIRVELU, Senior Counsel for M/S. K. PRABHU, Advocate for the petitioner and of Mr.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

[Order of the Court was made by K.KALYANASUNDARAM, J.]

The petitioner is the sole accused in Sessions Case No.831 of 2016, on the file of the learned Sessions Judge, Mahila Court, Tirunelveli. He was charged for the offence under Sections 417, 376 (n) and 506(i) I.P.C. The learned Sessions Judge, while acquitting the petitioner from the charge under Section 417 I.P.C., convicted him for the offence under Sections 376(n) and 506(i) I.P.C. and sentenced him to undergo life imprisonment and to pay a compensation of Rs.1,00,000/- (Rupees one lakh only) to P.W.1 Sakila and her



daughter Rithika Sri (each Rs.50,000/-), in default to undergo one (1) year rigorous imprisonment for the offence under Section 376(n) I.P.C., and to undergo one (1) year rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees ten thousand only), in default to undergo three (3) months simple imprisonment for the offence under Section 506(i) I.P.C. Aggrieved over the conviction and sentence, the petitioner has preferred the present criminal appeal. Pending appeal, the petitioner has filed this criminal miscellaneous petition seeking to suspend substantive sentence of imprisonment imposed on him by the Mahila Court in the above sessions case.

2. Mr.V.Kathirvelu, learned Senior Counsel, assisted by Mr.K.Prabhu, learned counsel on record for the petitioner, would argue that admittedly, the petitioner and P.W.1 are neighbours and they know each other from their childhood. The learned Senior Counsel, drawing the attention of this Court to the complaint / Ex.P1 given by P.W.1 and her evidence, would state that this is a case of purely love affair and at the time of the alleged occurrence, the victim was 21 years old and even if there is any allegation, the petitioner can be convicted only under Section 417 I.P.C., but, he was acquitted from the said charge and convicted for the other offences. The learned Senior Counsel would further state that the petitioner has not paid the compensation amount of Rs.1,00,000/- so far and now, he is ready to pay the compensation amount to P.W.1 and her child.

3. Per contra, Mr.R.Anandharaj, learned Additional Public Prosecutor, would submit that the evidence of P.W.1 and the other materials would categorically establish that the petitioner had cheated P.W.1 and had physical relationship with her by force and hence, he was rightly convicted by the Trial Court and hence, he is not entitled for any indulgence of this Court.

4. Heard the rival submissions and perused the materials available on record.

5. As rightly pointed out by the learned Senior Counsel appearing for the petitioner, in the complaint, which is marked as Ex.P1, it is stated that P.W.1 was aged 21 years and she has completed B.A. and it is further stated that on 16.08.2015, at 11.30 a.m. believing the words of the petitioner, she consented to have physical relationship with him and thereby, she became pregnant. It is also stated that the petitioner promised to marry her. In the cross-examination also, P.W.1 has admitted that she and the petitioner know each other from their childhood and from 2012, they became friends and they used to talk over phone.

6. Considering the above facts and circumstances of the case, we are inclined to suspend the substantive sentence of imprisonment imposed on the petitioner. Accordingly, the criminal miscellaneous



petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate, Nanguneri.

ii. The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Committal Court may obtain a copy of their Aadhar card or Bank passbook to ensure their identity.

iii. The petitioner shall appear before the learned Judicial Magistrate, Nanguneri, at 10.30 a.m. on the first working day of every English Calendar month until further orders.

iv. The petitioner shall pay a sum of Rs.50,000/- (Rupees fifty thousand only) to P.W.1 by way of demand draft and deposit a sum of Rs.50,000/- (Rupees fifty thousand only) in the name of the minor child, namely, Rithika Sri in anyone of the Nationalized Bank till she attains the age of majority.

v. The petitioner is directed to handover the original fixed deposit receipt to P.W.1.

vi. It is made clear that on attaining majority, the minor child, namely, Rithika Sri is entitled to withdraw the amount from the Bank.

vii. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 Cr.P.C. and appear before the Committal Court on any other day, as determined by the Committal Court, in lieu of the day on which they would absent.

sd/-
23/07/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant



TO

1. THE SESSIONS JUDGE,
MAHILA COURT, TIRUNELVELI DISTRICT.
2. THE JUDICIAL MAGISTRATE,
NANGUNERI.
3. THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT
4. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANGUNERI, TIRUNELVELI DISTRICT.
5. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTI.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.1149 of 2020
IN
CRL A (MD) No.20 of 2020
Date : 23/07/2020

KRK
TK/PN/SAR.2/27.07.2020/4P/7C