



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

Monday, the Twelfth day of October Two Thousand Twenty

PRESENT

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

CRL MP(MD) No.4030 of 2020
IN
CRL A(MD) No.606 of 2019

SIVAKUMAR

... PETITIONER/ APPELLANT/
ACCUSED - 6

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KARUR.

... RESPONDENT/ RESPONDENT/
COMPLAINANT

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 on the petitioner in Spl Sc No.17 of 2018 on the file of the Learned Additional sessions Judge/ Fast track Mahila Court, Karur judgment dated 19.11.2019 and enlarge the petitioner on bail pending disposal of the CRL A(MD) No.606 of 2019 and thus render justice.

PRAYER IN CRL A(MD) No.606 of 2019:

To present this Memorandum of Criminal Appeal to this Hon'ble Court and prays that the Hon'ble Court may be pleased to set aside the judgment dated 19.11.2019 made in Spl.S.C.No.17 of 2018 learned Additional Sessions Judge/ Fast Track Mahila Court, Karur.

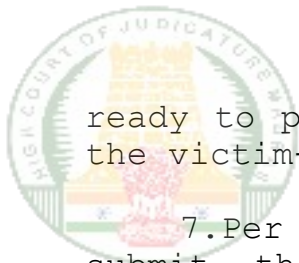
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.P.KUMARESAN, Advocate for the petitioner and of Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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

Heard Mr.P.Kumaresan, learned counsel appearing for the Petitioner and Mr.R.Anandharaj, learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

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ready to pay Rs.2 lakhs (Rupees two lakhs only) as compensation to the victim-P.W.2.

7. Per contra, the learned Additional Public Prosecutor would submit that even though P.W.1 had preferred a complaint on 19.11.2017 to the Station House Officer at Vengamedu Police Station, but, the present complaint was given on 6.12.2017 only after P.W.2 returned to her house on 30.11.2017. It is also contended that the witnesses are illiterates and they could not give the exact date of lodging the complaint. According to the learned Additional Public Prosecutor, the medical evidence also supported the evidence of P.W.2 and prays to dismiss this miscellaneous application.

8. In the matter on hand, the case of the prosecution is that on 18.11.2017, the accused 1 to 4 along with the assistance of A7, abducted P.W.2 to Thiruppur to involve her in brothel. A perusal of the evidence of P.W.1 to P.W.3 would show that a complaint was preferred on 19.11.2017 itself to Vengamedu Police Station, P.W.3 has admitted in his evidence that on the very next day, Vengamedu Police had informed him and they identified the accused and on the next day, P.W.2 was also present in Vengamedu Police Station and the Police obtained the statement from her. It is not in dispute that initially, P.W.2 implicated A5 also in this crime. But for the best reason known to her, no evidence was adduced to support the allegation against A5. Hence A4 and A5 were acquitted. A perusal of the records would also indicate that all the accused were present in the Police Station even before registration of the complaint and they were seen by P.W.2, hence the identification parade conducted by the prosecution becomes meaningless.

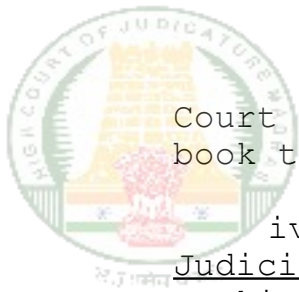
9. Considering the above aspects, we are of the opinion that the accused/A6 is entitled for suspension of sentence during pendency of the appeal. Accordingly, the criminal miscellaneous petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/A6 alone is suspended, subject to 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, of whom, one should be a blood-related surety, each for a like-sum to the satisfaction of the Judicial Magistrate No.I, Karur.

ii. The Petitioner/A6 shall pay a sum of Rs.2 lakhs (Rupees two lakhs only) to P.W.2/victim towards compensation, by way of Demand Draft drawn on any one of the nationalised Bank in favour of P.W.2/victim.

iii. The sureties shall affix their photographs and

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Court may obtain a copy of their Aadhar card or Bank pass book to ensure their identity.

iv. The petitioner shall appear before the learned Judicial Magistrate No.I, Karur, at 10.30 a.m. on the first working day of every English Calendar month until further orders.

v. 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 Trial Court on any other day, as determined by the Trial Court, in lieu of the day on which they would absent.

sd/-
12/10/2020

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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 concerned.

TO

1. THE ADDITIONAL SESSIONS JUDGE/
FAST TRACK MAHILA COURT, KARUR.
2. THE JUDICIAL MAGISTRATE NO.I, KARUR.
3. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KARUR DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
5. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KARUR.
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.P.KUMARESAN, Advocate (SR-6960[I] dated 13/10/2020)

ORDER IN
CRL MP(MD) No.4030 of 2020
IN
CRL A(MD) No.606 of 2019
Date :12/10/2020

MS/PN/SAR-4/14.10.2020/4P.8C

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