



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

Friday, the Twentieth day of November Two Thousand and Twenty

PRESENT

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

CRL MP(MD) No.4551 of 2020
IN
CRL A(MD) No.221 of 2019

CHIRANJEEVI

... PETITIONER/ PETITIONER/
APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SIVAGANGAI, SIVAGANGAI DISTRICT.
CIME NO.3 OF 2018

... RESPONDENT/ RESPONDENT/
RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahalir Neethimandram, Madurai In Spl. Session Case No.10/2019 dated 05.04.2019 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD) No.221 of 2019:

To set aside the sentence and conviction in Special Sessions Case No.10 of 2019, on the file of the Sessions Judge, Mahalir Neethimandram, Madurai dated 05.04.2019, by allowing this Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.G.BHAGAVATH SINGH, 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.G.Bhagavath Singh, learned counsel appearing for the Petitioner and Mr.R.Anandharaj, learned Additional Public Prosecutor
<https://hcservices.ecourts.gov.in/hcservices/>



appearing on behalf of the respondent and perused the materials placed before this Court.

2.The Petitioner was arrayed as A5 in S.C.No.10 of 2019, on the file of Principal Sessions Court(Mahila Court), Madurai and he was convicted for various offences including the provisions of POCSO Act. Challenging the conviction, the present Criminal Appeal is filed. Pending appeal, he seeks suspension of sentence.

3.It is the case of the prosecution that all the accused on 10.2.2018, during night hours, went to the house of P.W.1 and P.W.2 and kidnapped P.W.1 for the purpose of committing rape. The trial Court found that the charges framed against the accused have been proved and they were convicted accordingly.

4.The learned counsel for the Petitioner would state that the evidence of P.W.1 and the confession made by A1 would amply prove that though the Petitioner-A5 was compelled to have sexual intercourse with P.W.1, he refused to do so, which factor was not taken into consideration by the trial Court at the time of convicting the Petitioner.

5.Per contra, the learned Additional Public Prosecutor would argue that this is a case of gang rape and the Petitioner was all along present with A1 to A4 and the involvement of the Petitioner has been proved by the prosecution before the trial Court. It is also stated that the Petitioner is the driver of the car, in which, the victim was carried, using forged number plate.

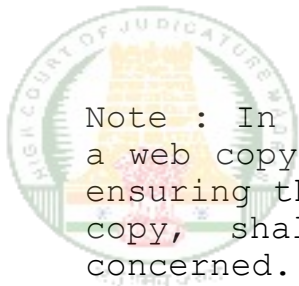
6.This Court, in the earlier application filed by the Petitioner in Crl.M.P(MD)No.4531 of 2019 considered the same points argued before this Court and held that he is not entitled for bail and that the points raised by the learned counsel for the Petitioner could be appreciated only at the time of final disposal of the appeal.

7.In view of the above facts, this Court find no change of circumstances to consider the application filed by the Petitioner/A5 for suspension of sentence. Accordingly, this application stands dismissed.

sd/-
20/11/2020

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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 concerned.

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- TO
1. THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.
 2. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
SIVAGANGAI, SIVAGANGAI DISTRICT.
 3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4551 of 2020
IN
CRL A(MD) No.221 of 2019
Date :20/11/2020

MS/PN/SAR-3/24.11.2020/3P.5C