



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

Wednesday, the Twenty Second day of January Two Thousand Twenty

PRESENT

**The Hon`ble Mr.Justice T.RAJA
and**

The Hon`ble Mr Justice B.PUGALENDHI

CRL MP(MD) No.11056 of 2019

IN

CRL A(MD) No.595 of 2019

D. GANADURAI

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
CHERANMAHADEVI POLICE STATION,
IN CRIME NO.24 OF 2013.
TIRUNELVELI DISTRICT.

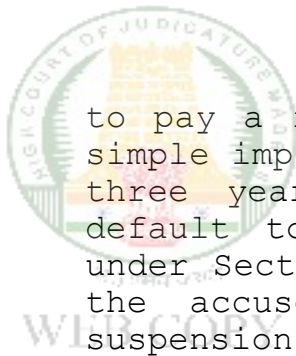
... RESPONDENT/COMPLAINANT

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 by the Judgment dated 03/09/2019 passed in Spl.S.C.No.21 of 2016 on the file of the Learned Principal Sessions JUDGE(Mahila Court), Tirunelveli, Tirunelveli District and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr. E. SOMASUNDARAM, 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 T.RAJA, J.)

The appellant, who is arrayed as sole accused in Spl.S.C.No.21/2015 on the file of the Principal Sessions Judge (Mahila Court), Tirunelveli, was convicted by judgment dated 03.09.2019 for offence under Section 4 of POCSO Act and 363 IPC and Section 4 of Tamil Nadu Women Harassment Act and sentenced to undergo life imprisonment with fine of Rs.1 lakh, in default to undergo simple imprisonment for one year for offence under Section 4 of POCSO Act, to undergo rigorous imprisonment for seven years and



to pay a fine of Rs.10,000/-, in default, to undergo three months simple imprisonment for offence under Section 363 IPC and to undergo three years rigorous imprisonment with fine of Rs.10,000/-, in default to undergo three months simple imprisonment for offence under Section 4 of Tamil Nadu Women Harassment Act. Pending appeal, the accused is before this Court with this petition seeking suspension of substantive sentence of imprisonment.

2.Mr.E.Somasundaram, learned counsel for the petitioner, assailing the finding and conclusion reached by the trial Court, contended that when P.W.-5 and P.W.-6 have turned hostile and not supported the case of the prosecution, and when P.W.-1 admitted that she went to the police station along with the victim girl P.W.3, it was substantiated that P.W.-1 is a close relative and she has been tutored by the Inspector inside the police station and the trial Court has failed to consider the evidence adduced by P.W.-1. Adding further, he has stated that even the evidence given by P.W.-3 victim also cannot be believed, since there are material contradictions. When it was the case of the prosecution that the accused was driving his auto carrying P.W.-3 as a passenger, it was deposed that it is the accused, who forcibly took P.W.-3 into the auto and subsequently after taking her to a secluded place, committed the offence, which shows that the evidence adduced by the victim is unbelievable and this has to be relooked by this Court and prays for suspending the substantive sentence of imprisonment imposed on the petitioner.

3. We are unable to accept the said contentions of the learned counsel for the petitioner, inasmuch as a cursory reading of Paragraph Nos.38 and 39 of the judgment of the trial Court do not throw any doubt to reject the case of the prosecution. Hence, we do not want to say anything more, as the appeal is pending for consideration. Finding no justification or merit in the submissions, this petition is dismissed.

sd/-

22/01/2020

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

TO

- 1 THE PRINCIPAL SESSIONS JUDGE (MAHILA COURT),
TIRUENLVELI, TIRUENLVELI DISTRICT.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
CHERANMAHADEVI POLICE STATION,
TIRUNELVELI DISTRICT.



3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.S.SATHIYA CHIDAMBARAM, Advocate (SR-1448[I] dated
24/01/2020)

ORDER
IN
CRL MP (MD) No.11056 of 2019
IN
CRL A (MD) No.595 of 2019
Date :22/01/2020

RR
AE/JC/SAR-I (03.02.2020) 3P 6C