



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Wednesday, the Twenty Second day of December Two Thousand Twenty One

WEB COPY

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos.4682 & 12531 of 2021

IN CRL.A.NO.164/2021

SAKTHIVEL

[APPELLANT / ACCUSED]

Vs

1 STATE REP BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.
(CR.NO.26/2013)

[RESPONDENTS / COMPLAINANT]

2 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVANNAMALAI TOWN SUB DIVISION,
THIRUVANNAMALAI DISTRICT

3 S.PRIYADHARSHINAI @ SOWMYA

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in CrL.A.No.164/2021 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed on the petitioner herein by the Sessions Judge, Special Court for SC/ST Act, Tiruvannamalai made in Spl.S.C.No.54/2019 by Judgement dated 06.03.2021 and enlarge him on bail pending disposal of the above CrL.A.No.164/2021. [IN CRL.MP.NO.4682/2021]

[ii] grant exemption of surrender of the Trivannamalai Sessions Judge on the file of Court in S.C.No.54/2019 dated 06.03.2021 petitioner herein before this Hon'ble Court in preferring the above CrL.A.No.164/2021. [IN CRL.MP.NO.12531/2021]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CrL.A.No.164/2021 on the file of the High Court and upon hearing the arguments of M/S.T.SHANMUGAM, Advocate for the Appellant and of M/S. S.SUGENDRAN, Government Advocate (crl.side) on behalf of the 1st and 2nd Respondents the court made the following order:-



These Criminal Miscellaneous Petitions have been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgment dated 06.03.2021 passed in Spl.S.C.No.54 of 2019 by the learned Sessions Judge, Special Court for SC/ST Act, Thiruvannamalai and to exempt the Petitioner/ Accused, from surrendering before the Trial Court pending disposal of the Criminal Appeal.

2. In and by the judgment of the Trial Court, the petitioner/accused was convicted for the offence under Section 417 IPC and sentenced to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo one month simple imprisonment, against which, the present appeal has been filed.

3. The submissions of the learned counsel appearing for the petitioner is as under :-

a. Though charges have been framed against the accused/petitioner under Sections 376 IPC r/w 3(2)(v) of SC/ST (POA) Act, the Court found the petitioner not guilty for the offences charged, alternatively, found the petitioner guilty for the offence under Section 417 IPC and convicted him to undergo one year Rigorous Imprisonment and to pay a fine of Rs.1000/-.

b. Taking into consideration, the evidence in entirety, the prosecution has not proved that the petitioner had induced the defacto complainant and cheated her on the false promise of marrying her. It is a case of consensual affair between the parties which has been projected as the case of cheating, however, the Trial Court, without taking into consideration the above aspect, wrongly convicted the petitioner.

c. There are arguable points available in the Criminal Appeal, and the Appeal is not likely to be taken for final hearing in the near future and the petitioner/ accused has got a fair chance of succeeding in the Criminal Appeal and hence, the sentence imposed against the petitioner/Accused may be suspended and the petitioner may be enlarged with bail and may be exempted from surrendering before the Trial Court.

4. Learned Government Advocate (Crl.Side) would submit that the petitioner and the defacto complainant are classmates and the petitioner on the false promise of marrying the defacto complainant, had sexual intercourse with her and thereafter, refused to marry her and the petitioner had also called her by her caste name and refused to marry her on account of her caste.



5. Heard the learned counsel for the parties and perused the materials available on record.

6. In this case, though charges under Section 376 IPC r/w 3(2) (v) of SC/ST (POA) Act, have been framed against the petitioner, the Trial Court had not found the accused guilty for the said offences and alternatively found him guilty for the offence under Section 417 IPC and sentenced him as stated above.

7. Considering the facts and circumstances of the case and the submissions of the learned counsel for the petitioner, this Court is of the opinion that the sentence of imprisonment can be suspended and the relief of exemption from surrendering on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the reliefs of exemption from surrender before the Trial Court, suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner shall execute bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties, each for a like sum to the satisfaction of the Judicial Magistrate No.2, Tiruvannamalai District.
- ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

6. These Criminal Miscellaneous Petitions stands ordered accordingly.

-sd/-
22/12/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR SC/ST ACT,
TIRUVANNAMALAI.



2 THE JUDICIAL MAGISTRATE,
NO.2, TIRUVANNAMALAI DISTRICT.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI DISTRICT [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.

5 THE DEPUTY SUPERINTENDENT OF POLICE,
THIRUVANNAMALAI TOWN SUB DIVISION,
THIRUVANNAMALAI DISTRICT

6 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.T.SHANMUGAM Advocate on payment of necessary charges

Order

in
CRL MP.Nos.4682 & 12531/2021

in
CRL.A.164/2021

Date :22/12/2021

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
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