



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Nineteenth day of August Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.7326 of 2021

IN CRL A.730/2018

PURUSHOTHAMAN

[PETITIONER/APPELANT/ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VIRUDHACHALAM,
CUDDALORE DISTRICT.
(CRIME NO. 25 OF 20217)

[RESPONDENT/COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal appeal No.730/2018 of on the file of the High Court, the High Court will be pleased to grant suspension of sentence imposed in Spl.S.C.No. 39 of 2018 dated 02/11/2018 on the file of Mahila Court, Cuddalore and enlarge the petitioner on bail, pending disposal of the above Criminal Appeal no.730/2018 and thus render justice.

Order : This petition coming on for orders upon perusing the petition and Memorandum of Grounds in Crl.OP.NO. of On the file of the High Court and upon hearing the arguments of M/S.R.SANKARASUBBU Advocate for the petitioner and of MR.R.VINOTH RAJA Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The matter is heard through "Video Conference".

The petitioner, who is the sole accused, has filed this petition seeking to suspend the sentence imposed by the learned Sessions Judge, Mahila Court, Cuddalore, in Spl.S.C.No.39 of 2018, dated 02.11.2018 and grant bail to him pending disposal of the above criminal appeal.

2. The learned Sessions Judge, Mahila Court, Cuddalore, has convicted the petitioner/accused for the offences under Sections 341, 366, 506(ii) and 323 of IPC and Section 4 of POCSO Act and sentenced



him as follows:-

Sl. No	Conviction	Sentence
1.	341 IPC	To undergo simple imprisonment for one month and to pay a fine of Rs.500/-, in default, to undergo simple imprisonment for a period of seven days.
2.	366 IPC	To undergo rigorous imprisonment for seven years and to pay a fine of Rs.2,500/-, in default, to undergo simple imprisonment for a period of one year.
3.	506(ii) IPC	To undergo rigorous imprisonment for three years and to pay a fine of Rs.7,000/-, in default, to undergo simple imprisonment for a period of one year.
4.	323 IPC	To undergo rigorous imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of three months.
5.	Section 4 of POCSO Act	To undergo rigorous imprisonment for fourteen years and to pay a fine of Rs.50,000/-, in default, to undergo simple imprisonment for a period of two years.

The above sentence of imprisonments were ordered to run concurrently.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the records.

4. Mr.R.Sankarasubbu, learned counsel for the petitioner/accused would contend that the answer elucidated in the cross-examination of P.W.1 was not considered by the trial Court and has wrongly convicted the accused for the offence under Section 4 of POCSO Act. On the date of the alleged offence, the victim girl is a minor. In the cross-examination, it was conducted after some time, on recall, certain answers have been elucidated. In the further cross-examination, it is stated that after leaving the victim girl, the accused has left the company of the victim girl and started absconding and hence, the complaint.



5. Learned counsel for the petitioner/accused would further contend that since there was a marriage subsequent to the alleged incident, the charges framed against the petitioner/accused are not maintainable.

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6. This Court is unable to uphold the said contention. On the date of the alleged act, P.W.1/victim was below aged 16 years and is a minor. As per the medical evidence, there is a penetrative sexual assault. Subsequent to the act of the accused will not nullify the earlier act committed on the body of the minor victim girl. Furthermore, even as per the evidence of P.W.1 given in the cross-examination, she has stated that he left her in lurch.

7. The admission made by the victim/P.W.1 that she was subsequently married to the accused would not absolve the liability of the accused under Section 4 of the POCSO Act. From the act of the accused, it is clear that he wanted to escape from the clutches of POCSO Act 2012 and hurriedly compromised the issue by throwing a bait in the name of marriage and successfully muffled the complaining voice of the victim and her mother. The compromise was also made illegally with an ulterior motive. The accused, after illegally marrying the victim, in contravention of Section 9 of Prohibition of Child Marriage Act 2006, had lived with the child in his house with D.W.1 for a few months and later created an issue of dowry to chase the victim away from his house and gave it a colour as if it was only a family dispute and hence, I am not inclined to grant suspension of sentence to the petitioner for the time being.

8. Accordingly, this miscellaneous petition, seeking suspension of sentence, is dismissed for the present. However, the petitioner/accused is at liberty to move the Court at a later point of time.

-sd/-
19/08/2021

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

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



TO

1. MAHILA COURT
CUDDALORE

2. THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VIRUDHACHALAM, CUDDALORE DISTRICT

4. THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

C.C. to M/S.R.SANKARASUBBU Advocate on payment of necessary charges

Order

in
CRL MP.7326/2021

in
CRL A.730/2018

Date :19/08/2021

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APN 25/08/2021