



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

Monday, the Eighth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.679 of 2021
IN
CRL A(MD) No.46 of 2021

MANIKANDAN

... PETITIONER/APELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ODDANCHATRAM, DINDIGUL DISTRICT.
(IN CRIME NO.18/2013)

... 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 by the Fast Track Mahila Court, Dindigul passed in S.C.No.23/2019 dated 08.01.2021, pending disposal of the Criminal Appeal.

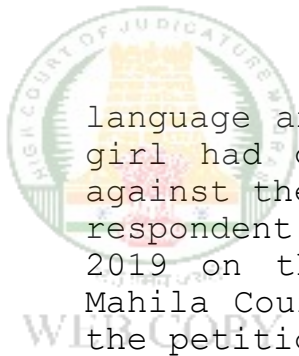
Prayer in CRL A(MD) No.46 of 2021:

To call for the records in S.C.No.23 of 2019 on the file of the Learned Fast Track Mahila Court, Dindigul and set aside the judgment dated 08.01.2021 in S.C.No.23 of 2019 on the file of the Learned Fast Track Mahila Court, Dindigul.

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.MUNIYANDI.S., Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Fast Track Mahila Court, Dindigul, passed in S.C.No.23 of 2019, dated 08.01.2021, till the disposal of the appeal.

2.The case against the petitioner is that there was a relationship between the petitioner and the victim girl /Kavitha, on 12.02.2013, the petitioner had forcible sexual relationship with the victim girl and she become pregnant. On 11.07.2013, the first person scolded the defacto complainant in filthy



language and criminally intimidated her. On 05.10.2013, the victim girl had given birth to a female child. A Case was registered against the petitioner and five others in Crime No.18 of 2013 by the respondent police and the same was taken on file as S.C.No.23 of 2019 on the Fast Track Mahila Court, Dindigul. The Fast Track Mahila Court, Dindigul, after enquiry, acquitted A2 to A6 and found the petitioner / A1 not guilty under Sections 294(b) and 417 I.P.C. But, found the petitioner / A1 guilty under Section 376 (1) I.P.C. and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo a further period of six months simple imprisonment. Against the said conviction and sentence, the petitioner has preferred a appeal case in Crl.R.C.(MD)No.46 of 2021. Along with the appeal, he has filed the present application for suspension of sentence, pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that P.W.1 is the victim and P.W.2 is the mother of the victim. Both of them turned hostile. Only based on the evidence of P.W.3, the investigation officer and based on the D.N.A. Test, the lower Court has convicted the petitioner. Except P.W.1 to P.W.3, no other witness was examined by the lower Court and the lower Court failed to consider that the petitioner and the victim got married and P.W.1 has clearly deposed that she willingly married the petitioner and there was love affair between them and these facts were not considered by the trial Judge. There are much more points to be argued in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the respondent, it is stated that at the time of occurrence, there was no marriage between the petitioner and the victim / P.W.1. and the D.N.A. Test / Ex.P12 clearly shows that the petitioner is the father of the female child. On 05.10.2013, the female child was born to the victim and the D.N.A. test clearly proved the offence. The case was proved by the prosecution beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that there was love affair and the petitioner and the victim got married later. A2 to A6 were acquitted by the lower Court. The petitioner was acquitted under Sections 294(b) and 417 I.P.C. The petitioner is in custody from 08.01.2021. Considering the facts and circumstances of the case and also considering the period of incarceration and considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-



(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Fast Track Mahila Court, Dindigul ;

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(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) the petitioner shall appear before the Trial Court daily at 10.30 a.m., until further orders.

sd/-
08/02/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.
 - 2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ODDANCHATRAM, DINDIGUL DISTRICT.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.S.MUNIYANDI, Advocate (SR-808[I] dated 09/02/2021)

ORDER
IN
CRL MP(MD) No.679 of 2021
IN
CRL A(MD) No.46 of 2021
Date :08/02/2021

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JM/VR/SAR II/10.02.2021/3P/6C

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