



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

Monday, the Twenty Ninth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2486 of 2021

IN

CRL A(MD) No.149 of 2021

T.RAM KUMAR

... APPELLANT/ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
CENTRAL POLICE STATION,
THOOTHUKUDI.
CRIME NO.211 OF 2010.

... RESPONDENT/COMPLAINANT

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 passed by the learned Sessions Judge, Magila Neethimandram (FTC), Tuticorin in S.C.No.320 of 2015 through a Judgment dated 09.03.2021.

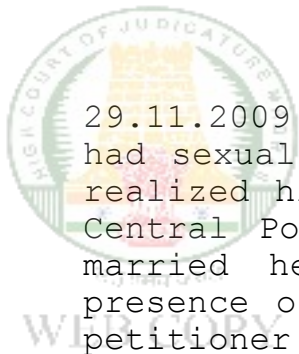
PRAYER IN CRL A(MD) No.149 of 2021:

Pleased to admit this Appeal on file and call for records from the Lower Court Namely Magila Neethimandram / Sessions Judge(Fast Track Court), Tuticorin in S.C.No.320 of 2015 and to Set Aside the Judgment passed in S.C.No.320 of 2015 on the file of Magila Neethimandram/Session Judge (Fast Track Court), Tuticorin dated 09.03.2021 and thereby Acquit the above accused from the charges.

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.KA.RAAMAKRISHNAN, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor 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 Sessions Judge, Mahila Neethimandram (FTC), Tuticorin, in S.C.No.320 of 2015, dated 09.03.2021, till the disposal of the appeal.

2. A case against the petitioner is that there was love affair between the petitioner and the victim. On 16.07.2009 and on



29.11.2009 with a false promise to marry the victim, the petitioner had sexual intercourse with her. The defacto complainant / victim realized his intention of cheating and she gave a complaint to the Central Police, Thoothukudi, on 30.11.2009. Then, the petitioner married her on 30.11.2009 at Thoothukudi Sivan Temple in the presence of relatives of the defacto complainant. Thereafter, the petitioner caused harassment to her. A case was registered against the petitioner in Crime No.211 of 2010 and the same was taken on file as S.C.No.320 of 2015 on the file of the Mahila Court, Thoothukudi. The Sessions Judge, Mahila Court, convicted the petitioner under Section 376 I.P.C. and under Section 4 of Tamil Nadu Prohibition of Women Harassment Act. The trial Court convicted the petitioner under Section 376 (I) of IPC and sentenced him to undergo ten year rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default to undergo a further period of six months rigorous imprisonment and convicted the petitioner under Section 4 of Tamil Nadu Prohibition of Women Harassment Act and sentenced him to undergo two years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default to undergo a further period of four months rigorous imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No149 of 2021 and along with the appeal, he filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the trial Court failed to consider that there was love affair between the parties and the defacto complainant is a consenting party. Even the allegation as to the false promise, is also wrong, since the petitioner has married the defacto complainant. P.W.1 to P.W.3 have admitted that the petitioner married the defacto complainant at the Thoothukudi Sivan Temple. The premarital relationship cannot be named as rape. The petitioner has fulfilled his promise by marrying the defacto complainant. This is only a family dispute. The petitioner is a Military personnel and he has to report to his duty and prayed the sentence to be suspended.

4.On the side of the respondent, it is stated that the petitioner had relationship with the defacto complainant by giving false promise. Only after filing a complaint before the police, the petitioner married the defacto complainant and immediately on marriage, he refused to live with the defacto complainant for the reason of caste difference. If the sentence is suspended there is possibility for the petitioner to escape from the clutches of law and prayed the petition to be dismissed.

5.It is seen that there are some points for consideration in the Appeal. The Criminal Appeal is not likely to be taken up for final hearing in the near future. The petitioner is a Military professional. There is no chance for him to escape from the clutches of law. In this Court is inclined to suspend the sentence.



6. Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal 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) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Mahila Neethimandram (FTC), Tuticorin ;

(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.**, for a period of one week and thereafter as and when required by the trial Court.

sd/-
29/03/2021

/ TRUE COPY /

/ /2021
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.

TO

1. THE SESSIONS JUDGE,
MAHILA NEETHIMANDRAM (FAST TRACK COURT), TUTICORIN.
2. THE INSPECTOR OF POLICE
CENTRAL POLICE STATION, THOOTHUKUDI.
3. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr. KA. RAAMAKRISHNAN Advocate SR.No.2680

ORDER IN
CRL MP(MD) No.2486 of 2021 IN
CRL A(MD) No.149 of 2021
Date : 29/03/2021

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