



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

Friday, the Thirtieth day of April Two Thousand and Twenty One

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PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL.M.P. (MD) No.3364 of 2021

in

CRL.A. (MD) No.207 of 2021

NALLAMUTHU

... PETITIONER/APPELLANT

Vs

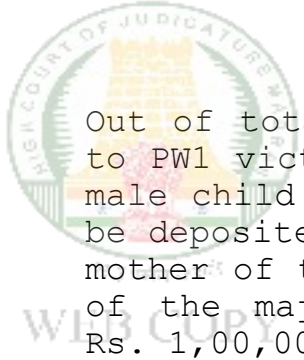
STATE THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AMBASAMUDRAM,
CRIME NO. 4/2015
TIRUNELVELI DISTRICT

... 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 awarded by the Mahila Court Tirunelveli dated 24.03.2021 in S.C No. 284/2016 dated 24.03.2021 against the Petitioner /Appellant to undergo Rigours imprisonment for 7 Years and pay fine Rs. 1,00,000/- and in default of payment of fine to undergo Simple Imprisonment for 1 year under section 376 IPC and to undergo Rigours imprisonment for 6 months and to pay fine Rs. 5000/- and in default of payment of fine to undergo simple imprisonment for 2 months under section 417 IPC and both sentences ordered to run concurrently and release the petitioner/appellant on bail pending disposal of Appeal and render justice.

PRAYER IN CRL.A. (MD) No.207 of 2021:

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to call for records and set aside the judgment and sentence awarded by the learned Mahila Court Tirunelveli, in S.C No. 284/2016 dated 24.03.2021 directing the Appellant/Accused to undergo Rigours imprisonment for 7 Years and to pay a fine Rs. 1,00,000/- and in default of payment of fine to undergo Simple Imprisonment for 1 year under section 376 IPC and to undergo Rigours imprisonment for 6 months and to pay fine of Rs. 5000/- and in default of payment of fine to undergo simple imprisonment for 2 months under section 417 IPC and both sentences are directed to run concurrently. The period of detention from 19.01.2015 to 02.02.2015 and 24.03.2021 and total period for 17 days is given set off under section 428 Crpc.



Out of total fine amount Rs. 1,05,000/- Rs.50,000/- is to be given to PW1 victim lady due to such occurrence and Rs. 50,000/- is PW1's male child Abraham and the said amount of minor child Abraham is to be deposited in the bank as compensation in the name of guardian the mother of the minor and to be paid after the minor attained the age of the majority. Total fine amount is Rs. 1,05,000/- in which Rs. 1,00,000/- is compensation.

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.RAMASAMY, Advocate for MR.SURESH SUBRAMANIAN.K., Advocate for the petitioner and MR.A.ROBINSON, Government Advocate (Crl Side) for Respondent the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 376 IPC, and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.1,00,000/-, in default to undergo simple imprisonment for a period of one year and for the alleged offence under Section 417 IPC, and sentenced him to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.5,000/-, in default to undergo simple imprisonment for a period of two months and both the sentences are directed to run concurrently and out of total fine amount Rs.1,05,000/- Rs.50,000/- is to be given to PW1 victim lady due to such occurrence and Rs.5,000/- is PW1's male child Abraham and the said amount of minor child Abraham is to be deposited in the bank as compensation in the name of guardian, the mother of the minor and to be paid after the minor attained the age of the majority. Total fine amount is Rs.1,05,000/- in which Rs.1,00,000/- is compensation in S.C.No.284 of 2016 on the file of the Mahila Court, Tirunelveli.

2.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

3.It is submitted by the learned Government Advocate (Crl.side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

4.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

5.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and



further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6. Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a 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 Court, Cheranmahadevi, Tirunelveli District;

(ii) the petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty five thousand only) to the credit of S.C.No.284 of 2016 on the file of the Mahila Court, Tirunelveli, on or before 02.06.2021;

(iii) and on further condition that the petitioner shall appear before the concerned Court once in a week i.e., on the first working day of every week at 10.30 a.m. pending appeal.

sd/-
30/04/2021

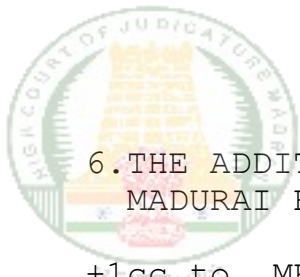
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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE MAHILA COURT TIRUNELVELI
2. THE JUDICIAL MAGISTRATE COURT,
CHERANMAHADEVI, TIRUNELVELI DISTRICT
3. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
4. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AMBASAMUDRAM,
TIRUNELVELI DISTRICT.

- 5 THE SUPERINTENDENT, CENTRAL JAIL,
PALAYAMKOTTAI.



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

+1cc to MR.SURESH SUBRAMANIAN.K, Advocate Sr.No.18332

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ORDER
IN
CRL.M.P. (MD) No.3364 of 2021
in
CRL.A. (MD) No.207 of 2021
Date : 30/04/2021

VB VR SAR I (03/05/2021) 4P / 8c