



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

Tuesday, the Twenty First day of September Two Thousand and Twenty One

WEB COPY

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

CRL MP(MD)No.6602 of 2021
IN
CRL A(MD)No.343 of 2021

KALPANA

... APPELLANT/ACCUSED No.3

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KARUR DISTRICT.
CRIME NO.14 OF 2017.

... 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 imposed against the appellant in Spl.SC.No.17 of 2018 on the file of the Learned Additional Sessions Judge/Fast Track Mahila Court, Karur dated 19.11.2019 and release the petitioner on bail till the disposal of the appeal.

PRAYER IN CRL A(MD)No.343 of 2021:

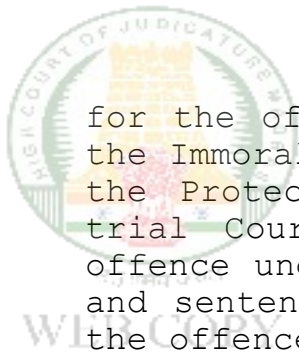
To call for the entire records connected to the judgment in Spl.SC.No.17 of 2018 on the file of the Hon'ble Additional Sessions Judge/Fast Track Mahila Court, Karur dated 19.11.2019 and set aside the conviction and sentence imposed against the appellant.

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.R.ALAGUMANI, Advocate for the petitioner and of Mr.S.RAVI, Additional Public Prosecutor(crl.side) on behalf of the Respondent, the court made the following order:-

O R D E R

(Order of the Court was made by **V.BHARATHIDASAN, J. .**)

Totally there are seven accused in S.C.No.17 of 2018 on the file of the Additional Sessions Judge/Fast Track Mahila Court, Karur. The petitioner is the third accused and he was found guilty



for the offences under Sections 120(B), 344 I.P.C, Section 4(1) of the Immoral Traffic (Prevention) Act and Sections 14(2)(3) and 17 of the Protection of Children from Sexual Offences Act, 2012. The trial Court sentenced him to undergo life imprisonment for the offence under Section 120(B) I.P.C and to pay a fine of Rs.50,000/- and sentenced him to undergo three years rigorous imprisonment for the offence under Section 344 I.P.C and to pay a fine of Rs.10,000/- in default to undergo simple imprisonment for three months and sentenced him to undergo rigorous ten years rigorous imprisonment for the offence under Section 4(1) of the Immoral Traffic (Prevention) Act and to pay a fine of Rs.25,000/- and in default to undergo simple imprisonment for six months and sentenced him to undergo life imprisonment for the offence under Sections 14(2)(3) and 17 of the Protection of Children from Sexual Offences Act, 2012 and to pay a fine of Rs.50,000/-. The sentences are ordered to be run concurrently. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

2.The case of the prosecution is that, victim girl is a minor and Sri Lankan Refugee. The first accused in this case kidnapped the victim girl for the purpose of engaging her in prostitution and took her to the third accused's house, where they have kept her for two days, thereafter took her to beauty parlour run by the first accused. Subsequently, a complaint was given by the mother of the victim girl and case was registered and the victim girl was rescued. The trial court convicted all the accused.

3.Mr.R.Alagumani, learned counsel for the petitioner/A3 submitted the main allegation is attributed only against the accused 1 and 2 and they have only kidnapped the victim girl and the allegation against the petitioner is that he has given shelter to the victim girl for 2 days in his house and there is no other allegation against him. The learned counsel would further submit that the accused 1, 2 and 6 were released on bail and seeks for suspension of sentence to the petitioner/A3.

4.Mr.S.Ravi, learned Additional Public Prosecutor appearing for the State strongly opposing the bail application would submit that the accused 1 and 2 kidnapped the victim girl and kept the victim girl in the house of the third accused/petitioner herein where the third accused has also harassed her and hence, the trial Court has rightly convicted the petitioner/A-3. Insofar as the petitioner/A-3 is concerned, he has given shelter to the accused and hence, he is not entitled for bail. He would also submit that the accused 1, 2 and 6 were released on bail only on payment of Rs.3 lakhs as compensation to the victim girl. Hence, the same condition may be imposed on the petitioner/A3 also.

5.We have considered the rival submissions made and perused the <https://www.sri.lanka.gov.lk/services> on records.



6.The main allegation is levelled against the accused 1 and 2 and they have stated to have kidnapped the minor victim girl for engaging her in prostitution. As far as the petitioner/A3 is concerned, she has given shelter and they have kept the victim girl in the house of the third accused, where the petitioner/third accused asked to prepare food and tea since she was not well and there is no other allegation attributed against the petitioner/A3. Apart from that, the other accused have also been granted suspension of sentence on paying compensation. Therefore, We find that, a *prima facie* case has been made out for grant of suspension of sentence.

7.Considering the above aspects, we are inclined to grant suspension of sentence. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended, subject to the following conditions:

i. The petitioner is directed to be enlarged on bail on executing 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 Additional Sessions Judge/Fast Track Mahila Court, Karur

ii. The petitioner shall appear before the trial Court at 10.30 a.m., on the first working day of every English calendar month until further orders.

iii. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 of Cr.P.C. and appear before the Court concerned on any other day, as determined by the Court concerned, in lieu of the day on which he would absent.

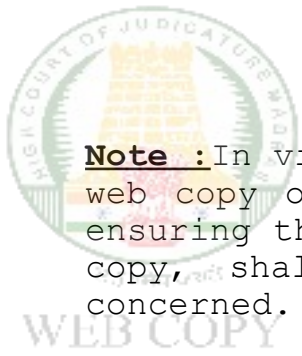
iv)The petitioner/A3 shall deposit a sum of Rs.50,000/- (Rupees fifty thousand only) to the credit of S.C.NO.17 of 2018 on the file of the Additional Sessions Judge/Fast Track Mahila Court, Karur, within a period of 8 weeks from the date of release on bail. On such deposit, the trial court is directed to pay the amount to the victim girl.

sd/-
21/09/2021

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/ /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 ADDITIONAL SESSIONS JUDGE,
FAST TRACK MAHILA COURT, KARUR.
2. THE OFFICER INCHARGE
SPECIAL PRISON FOR WOMEN TRICHY.
3. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KARUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP (MD) No. 6602 of 2021

IN

CRL A (MD) No. 343 of 2021

Date : 21/09/2021

SA/PN/SAR.4/22.09.2021/4P/5C