



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

Wednesday, the Twentieth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6286 of 2020
IN
CRL A(MD) No.345 of 2020

ILAYARAJA

... PETITIONER/APPELLANT/
SINGLE ACCUSED

Vs

THE STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
(MADURAIMADURAI DIVISION),
MANAMATHURAI POLICE STATION,
SIVAGANGAI DISTRICT.
CRIME NO.07/2006

... RESPONDENT/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 in Spl.S.C.No.40 of 2019 dated 14.10.2020 on the file of the Court of Sessions (Special Court for SC/ST (POA) Srivilliputhur, Virudhunagar District enlarge the petitioner/appellant/accused on bail pending disposal of above criminal appeal.

PRAYER IN CRL A(MD) No.345 of 2020:

To call for the records in Spl SC.No.40 of 2019 dated 14.10.2020 on the file of the Court of Sessions (Special Court for SC/ST(POA) Act), Srivilliputtur, Virudhunagar District, set aside the same, Acquit the appellant/Single Accused herein.

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.N.MOHIDEEN BASHA, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

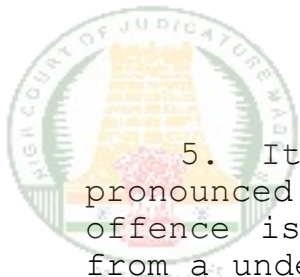
This petition has been filed to suspend the sentence imposed by the Court of Sessions (Special Court for SC/ ST (POA) Act), Srivilliputhur, Virudhunagar District, made in Spl.S.C.No.40 of 2019, dated 14.10.2020 and to enlarge the petitioner on bail pending the disposal of the appeal.



2.The allegation against the petitioner is that on 03.01.2006, at about 2.00 p.m, the petitioner raped the victim, by name, Sangeetha and the victim committed suicide on 04.01.2006 at about 11.30 a.m. A case in Crime No. 7 of 2006 under Sections 376, 306 r/w. 3(2)(v), 3 (1)(xii) of SC/ST Act and the same was taken on file as Special S.C.No.40 of 2019 by the Special Court for SC/ ST (POA) Act, Srivilliputhur, Virudhunagar District. After trial, the Special Court found the petitioner not guilty under Section 306 I.P.C. r/w. Section 3(2) (v) SC/ST Act and found the petitioner guilty under Section 376 I.P.C. and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default, to undergo further period of three months simple imprisonment. Against the conviction and sentence the petitioner preferred an appeal in Crl.A.(MD)No.345 of 2020. Along with the Appeal the petitioner preferred this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there was a love affair between the victim and the petitioner and she only informed the petitioner that she was alone in the house. Even in the Dying Declaration, it is stated that she was only kissed by the petitioner, there is no allegation of any rape. There is no medical evidence to prove that the victim was subjected to rape. The Serology report and the medical evidence did not support the case of the prosecution. There is a delay of two days in forwarding the F.I.R. to the Court. The hand writing in the F.I.R and in the complaint are similar. The reason for taking the deceased to Madurai Government Hospital is not explained by the prosecution. P.W.9, has deposed that the victim had love affair with some one and she was scolded by her parents, which reveals that the petitioner is not the reason for the suicide and the trial Court rightly acquitted the petitioner under Section 306 I.P.C.. The petitioner is in custody for the past 84 days. The petitioner is a practising Advocate and prayed the sentence to be suspended.

4.On the side of the respondent, it is stated that the prosecution has examined 18 witnesses (P.W.1 to P.W.18) and marked 20 documents (Ex.P1 to Ex.P20) and 2 Material Objects (M.O.1 and M.O.2). Father and brother of the victim were not available on the date of occurrence, they went to go Ayyappan temple and the mother of the victim was present at the Women Self Help Group. The petitioner is the friend of the brother of the victim and utilizing the opportunity, when the victim was all alone in the house, the petitioner raped her. Due to the impact of the rape, the victim committed suicide. She has given a Dying Declaration before the Judicial Magistrate No.VI, Madurai, which was marked as Ex.P12, whereas, she has clearly stated she has molested by the petitioner and the petitioner is the reason for her commission of suicide. The prosecution has proved the case beyond all reasonable doubt and



5. It is seen that the judgment of the trial Court was pronounced on 14.10.2020. The offence is serious in nature. The offence is alleged to have been committed against a lady, who is from a under-privileged community. In view of the same, this Court is not inclined to suspend the sentence at the present stage. Hence, this Petition is dismissed.

sd/-
20/01/2021

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

TO

- 1.THE SESSIONS (SPECIAL COURT FOR SC/ST(POA)ACT),
SRIVILLIPUTTUR, VIRUDHUNAGAR DISTRICT.
- 2.THE DEPUTY SUPERINTENDENT OF POLICE,
(MADURAIMADURAI DIVISION),
MANAMATHURAI POLICE STATION,
SIVAGANGAI DISTRICT.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE SECTION OFFICER, CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.6286 of 2020
IN
CRL A(MD) No.345 of 2020
Date :20/01/2021

LS
TK/VR/SAR.2/04.02.2021/3P/6C