



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

Monday, the Twenty Fifth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6518 of 2020
IN CRL A(MD) No.300 of 2020

PONRAJ

... PETITIONER/ PETITIONER/
APPELLANT/ SOLE ACCUSED

-Vs-

STATE REP.BY
THE INSPECTOR OF POLICE
AUNDIPATTI POLICE STATION,
THENI DISTRICT.
CRIME NO.194 OF 2013

... RESPONDENT/ RESPONDENT/
RESPONDNET/ 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 in Judgment dated 26.08.2020 made in S.C.No.119 of 2014 on the file of the Learned Fast Track Mahila Court, Theni and enlarge the petitioner on bail pending disposal of the instant Criminal Appeal.

PRAYER IN CRL A(MD) No.300 of 2020:

To call for the judgment dated 26.08.2020 passed by the Fast Track Mahila Court, Theni in Sessions Case No.119 of 2014 in Crime No.194 of 2013 on the file of the Respondent Police, whereby the Trial Court has convicted the Appellant U/s.376 of IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.60,000/- in default to undergo Rigorous Imprisonment for 2 years and further the Trial Court has convicted the Appellant U/s.506(i) of IPC and sentenced him to undergo 6 months simple imprisonment and acquit the Appellant by allowing the above appeal.

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.J.LAWRANCE, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence passed by the Fast Track Mahila Court, Theni, in S.C.No.119 of 2014, dated 26.08.2020 and to enlarge the petitioner on bail, pending the disposal of the Criminal appeal.



2.The offence against the petitioner is that the petitioner committed rape on the victim and threatened her with dire consequences. A case in Crime No.194 of 2013, was registered against the petitioner and the same was taken on file as S.C.No.119 of 2014 by the Fast Track Mahila Court, Theni. The Charge was framed under Sections 376, 417 and 506(i) I.P.C. After trial, the petitioner was found guilty under Sections 376 and 506(i) I.P.C and was acquitted under Section 417 I.P.C. by the Fast Track Mahila Court. The petitioner was sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.60,000/- (Rupees Sixty Thousand only), in default, to undergo further period of two years rigorous imprisonment under Section 376 I.P.C. and was sentenced to undergo six months simple imprisonment under Section 506(i) I.P.C. Against the said conviction and sentence, the petitioner filed an appeal, in Crl.A.(MD)No.300 of 2020. Along with the appeal, the petitioner preferred the present application for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner was a mason, P.W.1 worked as a helper. P.W.1 was well aware that the petitioner was already married and was having two children. There was love affair between P.W.1 and the petitioner. They were in relationship for a period of more than one year. Manner of occurrence as stated by the prosecution is un-believable. There are contradictions between the evidence of P.W.1 and the complaint. P.W.1 has admitted her relationship and her knowledge that the petitioner was already married. Before filing the case, a Panchayat was conducted, wherein, P.W.1 demanded the petitioner to settle some amount. Only on refusal to pay some amount, P.W.1 has lodged the complaint. P.W.14, who is the sister of P.W.1, has admitted that there was love affair between the petitioner and P.W.1 for a period of two years. P.W.2, who is the owner of the building, did not support the case of the prosecution. The petitioner is in custody from 26.08.2020 I.e. For the past six months. There are much more points for arguments 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 the medical report of the victim was marked as Ex.P.2. DNA report was marked as Ex.P4. Evidence of P.W.1 was supported by the medical evidence. DNA report proved that the petitioner is the biological father of the child. Prosecution has examined 23 witnesses (P.W.1 to P.W.23) and marked 8 documents (Ex.P1 to P8). The prosecution has proved the case beyond on all reasonable doubts and if the sentence is suspended, there is a chance for the petitioner to escape from the clutches of law and prayed the petition to be dismissed.

5.It is seen that there are arguable points in the memorandum of appeal, which require a detailed consideration by this Court and



hearing in the near future. The petitioner is in custody for the past six months. Considering the period of incarceration, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6. Accordingly, 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) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Aundipatti.

(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 their valid identity card to ensure their identity.

(iii) the petitioner shall appear before the Trial Court on every Wednesday at 10.30 a.m., until the disposal of the revision or until further orders.

sd/-
25/01/2021

/ 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 JUDGE, FAST TRACK MAHILA COURT, THENI.
- 2 THE JUDICIAL MAGISTRATE, AUNDIPATTI.
- 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
- 4 THE INSPECTOR OF POLICE, AUNDIPATTI POLICE STATION, THENI DISTRICT.
- 5 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.J.LAWRANCE, Advocate (SR-462[I] dated 25/01/2021)

ORDER IN
CRL MP(MD) No.6518 of 2020
IN CRL A(MD) No.300 of 2020
Date :25/01/2021