



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM :

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

CrI.M.P.No.1876 of 2022

in CrI.A.No.146 of 2022

Azhagan @ Prabhu

.. Petitioner

Vs

State Rep. By
The Inspector of Police,
All Women Police Station,
Kondalampatti,
Salem District.
(Crime No. 12 of 2013)

.. Respondent

Petition filed under Section 389 (1) of Cr.P.C against the order dated 29.06.2018 made in SPL S.C.No.23 of 2015 on the file of Sessions Judge, Mahila Court, Salem.

For Petitioner: Mr.S.Jeyakumar

For Respondent: Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

ORDER

1. This criminal miscellaneous petition has been preferred seeking to suspend the sentence imposed on the petitioner by judgment and order dated 29.06.2018 in S.C.No. 23 of 2015 on the file of Sessions Judge, Mahila Court, Salem.

2. Learned counsel appearing on behalf of the petitioner submitted that on a perusal of the evidence of P.W.1, it would be clear that she is more than 15 years of age and the act was consensual in nature. Therefore, he would pray that in view of the prolonged incarceration of the petitioner from the year 2018, sentence be suspended.



3. Learned Government Advocate (Criminal Side) would submit that a perusal of evidence of P.W.1 would show that it was the forcible intercourse. The accused is a married man. P.W.1 has categorically deposed that she was threatened and by forcibly thrusting cloth in her mouth, the offence was committed.

4. Upon consideration of the nature of offence, I am of the view that the allegation prima facie is of forced sexual assault, that too on a disabled victim and I do not see any prima facie case for grant of suspension of sentence. Accordingly, the criminal miscellaneous petition is dismissed. However, considering the fact that the petitioner is under incarceration from the year 2018, Registry is directed to list the Criminal Appeal for final hearing on 08.07.2022.

-sd/-
14/06/2022

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE
MAHILA COURT, SALEM.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KONDALAMPATTI, SALEM DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.



5 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

WEB COPY

C.C. to M/S. S.JEYAKUMAR Advocate on payment of necessary
charges

Order
in
CRL MP.1876/2022
in
CRL.A.146/2022
Date :14/06/2022

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CSK 20/06/2022