



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Wednesday, the Second day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice P. N. PRAKASH

and

The Hon`ble Mr Justice AA. NAKKIRAN

CRIMINAL MISCELLANEOUS PETITION No.2604 of 2022

in Crl.A.No.587 of 2021

RANGANATHAN

[PETITIONER/APPELLANT]

Vs

STATE REP BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PANRUTI, CUDDALORE DISTRICT
(CRIME NO.16/2017)

[RESPONDENT]

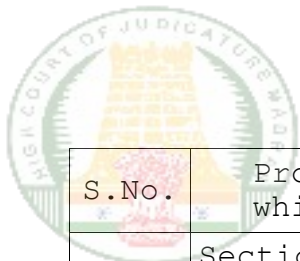
Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.587 of 2021 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner/appellant in SC.No. 162 of 2018 dated 22.10.2021 passed by the Learned Sessions Judge, Mahila Court, Cuddalore and release the petitioner on bail.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.587 of 2021 on the file of the High Court and upon hearing the arguments of M/S.A.VELMURUGAN Advocate for M/S K.RAJEEV Advocate for the petitioner and of M/S R.MUNIYAPPARAJ,GOVT.ADVOCATE (CRL.SIDE) on behalf of the Respondent the court made the following order:-

(Made by P.N.PRAKASH, J.)

This criminal miscellaneous petition has been filed seeking to suspend the sentence imposed on the petitioner by judgment and order dated 22.10.2021 passed in S.C.No.162 of 2018 on the file of the Sessions Court, Mahila Court, Cuddalore and to enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner, who was an accused in S.C.No.162 of 2018 before the Sessions Court, Mahila Court, Cuddalore, was convicted and sentenced as follows on 22.10.2021:



S.No.	Provision under which convicted	Sentence
1	Section 450 IPC	Five years rigorous imprisonment and fine of Rs.10,000/-, in default to undergo one year simple imprisonment.
2	Section 376(2)(1) IPC	Life imprisonment and fine of Rs.20,000/-, in default to undergo two years simple imprisonment.

The aforesaid sentences were ordered to run concurrently.

3. Challenging the aforesaid conviction and sentences, the petitioner has filed Crl.A.No.587 of 2021 with the instant criminal miscellaneous petition seeking suspension of sentence and bail.

4. Heard Mr.A.Velmurugan, learned counsel representing Mr.K.Rajeev, learned counsel on record for the petitioner and Mr.R.Muniyapparaj, learned Additional Public Prosecutor appearing for the respondent/State.

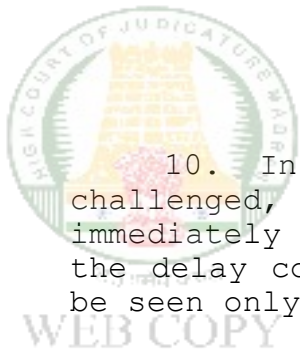
5. It is the case of the prosecution that the victim girl "X" was not only a mentally challenged girl, but also, deaf and dumb; the petitioner was her neighbour; after the demise of "X's" father, she was under the care of her uncle Balakrishnan (PW1); "X's" uncle (PW1) had gone with other members of the family to attend the death ceremony of a relative on 22.10.2017; at that time, "X" was alone at home; while that being so, the petitioner is said to have entered the house and sexually abused her.

6. The learned counsel for the petitioner submitted that the evidence of "X" does not inspire the confidence, because, in her cross-examination, she has stated that she will say whatever her uncle asked her to say. He also brought to the notice of this Court that in the cross-examination, "X" has answered 'yes' for a question as to whether at the instance of her uncle, she has falsely implicated the accused.

7. However, a complete reading of the evidence of "X" shows that she is of very less IQ, but, consistently, she has been telling everyone from the time of incident that the accused entered the house and misbehaved with her.

8. Dr.Ramya (PW6), in her evidence, has stated that when she medically examined "X" on 24.10.2014, she found that her vagina was reddish in colour. This, to some extent, corroborates the evidence of "X".

9. The learned counsel for the petitioner further submitted that the incident had taken place on 22.10.2017, whereas, the complaint was lodged only on the next day.



10. In a case of this nature, where, the victim is a mentally challenged, deaf and dumb girl, the village folks will not immediately rush to the police station for giving complaint. Whether the delay could be accepted or not is a question of fact, which can be seen only at the time of final disposal of the appeal.

11. At this juncture, pertinent it is to point out that the Supreme Court, in Sidhartha Vashisht @ Manu Sharma vs. State (NCT of Delhi), has considered Kashmira Singh v. State of Punjab and has held as follows:

"30. . . . In the above cases, it has been observed that once a person has been convicted, normally, an appellate court will proceed on the basis that such person is guilty. It is no doubt true that even thereafter, it is open to the appellate court to suspend the sentence in a given case by recording reasons. But it is well settled, as observed in Vijay Kumar [(2002) 9 SCC 364 : 2003 SCC (Cri) 1195 : JT 2002 Supp (1) SC 60] that in considering the prayer for bail in a case involving a serious offence like murder punishable under Section 302 IPC, the Court should consider all the relevant factors like the nature of accusation made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the desirability of releasing the accused on bail after he has been convicted for committing serious offence of murder, etc. It has also been observed in some of the cases that normal practice in such cases is not to suspend the sentence and it is only in exceptional cases that the benefit of suspension of sentence can be granted."

In view of the above reasoning and taking into consideration the serious nature of allegations against the petitioner, we are of the opinion that this is not a fit case to grant suspension of sentence and bail to the petitioner and accordingly, this criminal miscellaneous petition stands dismissed.

-sd/-

02/03/2022

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.



1 THE SESSIONS JUDGE,
MAHILA COURT, CUDDALORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PANRUTI, CUDDALORE DISTRICT

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

Order

in
CRL MP.2604/2022

in Crl.A.No.587 of 2021

Date :02/03/2022

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RVR 08/03/2022