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Crl.M.P.No.7972 of 2022 in Crl.A.No.601 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.M.P.No.7972 of 2022 in Crl.A.No.601 of 2022

Chinnapaiyan

... Petitioner

Versus

The State rep. by
The Inspector of Police,
Kolathur Police Station,
Salem District.
(Crime No.334 of 2010)

... Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 374(2) of the Code of Criminal Procedure to suspend the sentence passed in judgment, dated 20.04.2022 in S.C.No.153 of 2013 by the learned Sessions Judge, Magalir Needhimandram (Mahila Court), Salem pending disposal of the above C.A.No.601 of 2022 on the file of the Court.

For Petitioner : Mr.M.G.Udaya Shankar

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

ORDER

This Criminal Miscellaneous Petition is filed to suspend the sentence passed in the judgment, dated 20.04.2022 in S.C.No.153 of 2013 by the learned Sessions Judge, Magalir Needhimandram (Mahila Court), Salem pending disposal of the above C.A.No.601 of 2022.



2. Heard the learned Counsel for the petitioner and learned Government Advocate (Criminal Side) for the respondent.

3. The learned Counsel for the petitioner would submit that the allegation, in this case, is in the nature of love affair and therefore, the Trial Court erroneously convicted the petitioner for the offence under Section 376 of the Indian Penal Code. He would further submit that the petitioner was aged about 21 years and the victim girl was aged about 14 years at the time of occurrence. Now, after the judgment, the petitioner is in prison from 20.04.2022 and seeks for suspension of sentence.

4. Per contra, the learned Government Advocate (Crl. Side) would contend that in any event, the prosecution had proved that the girl was less than 16 years of age and therefore, the Trial Court has rightly convicted the petitioner.

5. Considering the nature of allegation in this case being the nature of love affair, considering the age of the victim and the accused being 14 years and 21 years respectively at the time of occurrence, considering the fact that the



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petitioner is in prison from 20.04.2022 onwards, I am of the view that this is a fit case for grant of Suspension of Sentence pending disposal of the appeal.

Accordingly, sentence of the petitioner is suspended on the following conditions:-

(a) the petitioner is ordered to be released on bail, on his executing a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the Trial Court;

(b) the petitioner and the sureties shall affix their photographs and left thumb impressions in the surety bonds and the learned Magistrate may obtain a copy of their Aadhar Cards or Bank Pass books to ensure their identities;

(c) the petitioner shall appear before the Trial Court on the first working day of every English Calendar Month at 10.30 A.M until the disposal of the Criminal Appeal and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C., and shall appear before the Trial Court on any other day in *lieu* of the date of his absence, as directed by the Trial Court.

6. This Criminal Miscellaneous Petition is ordered accordingly.

21.07.2022



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Index : yes/no

Speaking order/Non-speaking order

grs

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D.BHARATHA CHAKRAVARTHY. J.,

grs

To

1. The Sessions Judge,
Magalir Needhimandram (Mahila Court),
Salem.
2. The Public Prosecutor,
High Court of Madras.
3. The Superintendent of Police,
Central Prison,
Salem.
4. The Inspector of Police,
Kolathur Police Station,
Salem District.

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