



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.M.P.No.11755 of 2021

in

Crl.A.No.552 of 2021

Manikandan @ Vimal

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Cuddalore District.
(Crime No.8 of 2018)

... Respondent

PRAYER: The Criminal Miscellaneous Petition is filed under Section 389 (1) of the Code of Criminal Procedure, to grant suspension of sentence passed in S.C.No.244 of 2019 on the file of the learned Sessions Judge, Mahila Court, Cuddalore District and enlarge petitioner/appellant on bail.

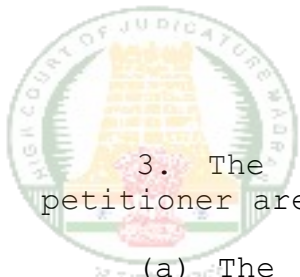
For Petitioner : Mr.G.Mohana Krishnan

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

O R D E R

This Criminal Miscellaneous Petition has been filed by the Petitioner, seeking suspension of sentence of imprisonment, imposed by the judgment dated 26.08.2021 passed in S.C.No.244 of 2019 by the Sessions Judge, Mahila Court, Cuddalore.

2. The petitioner was charged for offences under Section 354D, 452, 376 and 417 IPC and 4 TN Prohibition Harassment of Women Act and the Trial Court had found the accused guilty for offences under Sections 376 & 417 IPC and convicted and sentenced him to undergo rigorous imprisonment for a period of 10 years and to pay fine of Rs.50,000/-, in default, undergo 2 years of simple imprisonment for the offence under Section 376 (1) IPC and sentenced him to undergo rigorous imprisonment for a period of 1 year and to pay a fine of Rs.10,000/-, in default, undergo 3 months of simple imprisonment for the offence under Section 417 IPC.



3. The submissions of the learned counsel appearing for the petitioner are as under:-

(a) The case of the prosecution is filled with exaggeration and embellishment. Though, charges were framed against the accused for offences under Section 354D, 452, 376 and 417 IPC and 4 TN Prohibition Harassment of Women Act, the Trial Court, finding that the evidence of prosecutrix did not inspire confidence with regard to the offence under Sections 354D & 452 IPC had acquitted him.

(b) The petitioner and the prosecutrix belong to the same village and that even as per the prosecutrix, they were having a love affair for 2 years and that they were having a consensual physical relationship on several occasions and the medical evidence does not support the case of rape and further, there is no evidence to prove that the petitioner had the intention to cheat the prosecutrix right from the beginning of their relationship and that he had made the promise of marriage only to satisfy his lust.

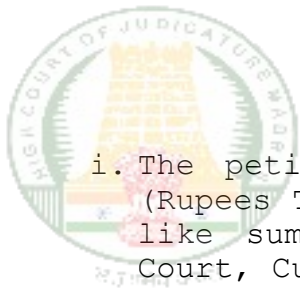
(c) The prosecutrix had deposed that her well-wishers one Sarath and his wife, conducted pregnancy test and only then, she came to know that she was pregnant. However, the said Sarath and his wife were not examined by the respondent before the Trial Court. Further, the medical evidence has not supported the case of rape and pregnancy.

4. According to the learned counsel for the petitioner, the petitioner has got a fair chance of succeeding in the Criminal Appeal and there are arguable points available in the Criminal Appeal, however, as the Appeal is not likely to be taken for final hearing in the near future, the sentence imposed against the petitioner may be suspended and the petitioner may be enlarged on bail.

5. Per contra, Mr.S.Sugendran, learned Government Advocate (Crl.Side) would submit that the petitioner and the prosecutrix belong to the same village and the petitioner, on the promise of marrying the prosecutrix, had sexual intercourse with the victim girl and thereafter had refused to marry her. He would further submit that the Trial Court, based on the evidence, had found the accused guilty for offences 376 and 417 IPC.

6. Heard the learned counsel for the petitioner and perused the materials on record. The petitioner had made out grounds for grant of suspension of sentence.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner, this Court is of the view that the sentence of imprisonment can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, suspension of sentence and bail are granted, on the following conditions :-



i. The petitioner shall execute 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 Sessions Judge, Mahila Court, Cuddalore District.

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ii. The petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until further orders.

8. The Criminal Miscellaneous Petition is ordered accordingly.

-sd/-

06/01/2022

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

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

TO

1 THE SESSIONS JUDGE,
MAHILA COURT, CUDDALORE.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CUDDALORE, CUDDALORE DISTRICT.

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE DISTRICT.

+1 C.C. to M/S. G.MOHANA KRISHNAN Advocate on payment of
necessary charges SR.NO.279

Order

in
CRL MP.11755/2021

in
CRL A.552/2021

Date :06/01/2022

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INBA?10/01/2022