



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2022

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CrI.M.P.No.11691 of 2021

in CrI.A.No.548 of 2021

Rahul Gandhi

... Petitioner

..Vs..

State By:

The Inspector of Police,
All Women Police Station,
Kallakurichi District,
Crime No.2 of 2020.

... Respondent

PRAYER: Criminal Miscellaneous petition filed under Section 389(i) of Cr.P.C, to suspend the sentence passed by the learned Sessions Judge, Mahila Fast Track Court, Villupuram in S.C.No.13 of 2021 dated 18.10.2021 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal.

For Petitioner : Mr.K.C.Karl Marx

For Respondent : Mr.S.Sugendran
Government Advocate (crl.side)

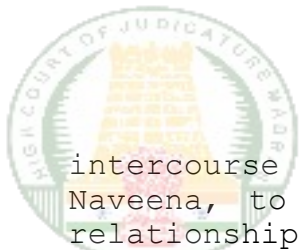
O R D E R

(This Case has been heard through video conferencing)

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed by the learned Sessions Judge, Mahila Fast Track Court, Villupuram in S.C.No.13 of 2021 dated 18.10.2021 and enlarge the petitioner on Bail, pending disposal of the Criminal Appeal.

2.In and by the judgment of the trial court, petitioner/A1 was convicted for the offence under Section 376 r/w 90 IPC and sentenced to undergo 10 years R.I. with fine of Rs.25,000/- and in default to pay, sentenced to undergo three months S.I. and against which the present appeal has been filed.

3. Learned counsel appearing for the petitioner would submit that the victim/prosecutrix is aged 23 years. It is a case of love affair and consensual relationship between consenting grown up adults and the prosecution has falsely projected it as a case of rape and cheating. P.W.1, the prosecutrix had admitted that the petitioner and herself were in love for about three years and they had sexual



intercourse on multiple occasions. It is also confirmed by PW10 -Dr. Naveena, to whom the prosecutrix had disclosed that she was having relationship with the petitioner for three years and that they had intercourse multiple times. He would further submit that there are arguable points available in the Criminal Appeal Case, which is not likely to be taken for final hearing in the near future and the Petitioner/A1 has got a fair chance of succeeding in the Criminal Appeal Case.

4. The respondent has filed a counter. Mr.S.Sugendran, learned Government Advocate (crl.side) appearing for the respondent would submit that the petitioner on inducement of false promise of marrying the victim girl had sexual intercourse with her and later refused to marry her. When it was intimated to the parents of the prosecutrix, they had abused the petitioner. However, the trial court had acquitted the parents and relatives of the petitioner. On the side of the prosecution, P.W.1 to P.W.14 were examined and Exs.P1 to Ex.P11 were marked. However, no evidence was let in on the side of the defence. The trial court finding that the prosecution has proved the case beyond reasonable doubt had found the petitioner guilty and convicted him for the offence under sections 376 r/w 90 of IPC. He would oppose for grant of suspension of sentence to the petitioner.

5. Heard the learned counsels and perused the materials on record including the evidence of P.W.1 Prosecutrix and the evidence of the doctor, PW10 who has examined the victim with regard to the sexual offences.

7. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner/accused, this Court is of the view that the petitioner has made out case for grant of suspension of sentence. Accordingly, till the disposal of the Criminal appeal, the reliefs of suspension of sentence and bail are granted, on the following conditions :-

- i. The petitioner/A1 shall execute own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the Superintendent of the concerned prison/Jailor concerned, in which the petitioner has been confined and thereafter, on his release, the petitioner shall execute two sureties for a sum of Rs.15,000/- (Rupees Fifteen Thousand only), each for a like sum to the satisfaction of the learned Judicial Magistrate-1, Kallakurichi within 15 days from the date of commencement of the court's normal functioning, failing which the bail granted by this court shall stand dismissed automatically and on further conditions that:
- ii. The petitioner/accused 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/-

01/02/2022

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 JUDICIAL MAGISTRATE,
NO.I, KALLAKURICHI

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM(FOR INFORMATION)

3 THE SESSIONS JUDGE,
MAHILA FAST TRACK COURT, VILLUPURAM

4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KALLAKURUCHI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

6 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

C.C. to M/S. K.C.KARL MARX Advocate on payment of necessary
charges Sr.1579

Order

in

CRL MP.11691/2021

in

Crl.A.No.548 of 2021

Date :01/02/2022

From 7.2.2001 the Registry is issuing certified
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RVR 02/02/2022