



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Thursday, the Twenty Second day of September Two Thousand and
Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.4874 of 2022

in

CRL A(MD)No.286 of 2022

SURENDHAR

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARANTHANGI,
PUDUKKOTTAI DISTRICT.
(IN CRIME NO.01/2019).

... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the execution of sentence in Sessions Case No.85/2019 dated 15/03/2022 on the file of Learned Mahila Court, Pudukkottai by enlarging the petitioner on bail in disposal of Criminal Appeal.

PRAYER IN CRL A(MD)No. 286 of 2022:

Pleased to call for the records relating to the Sessions Case No. 85 of 2019 on the file of the Mahila Court, Pudukkottai and set aside the Judgment dated 15.03.2022 passed therein and acquit the appellant by allowing this Criminal Appeal.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.K.BAALASUNDHARAM, Advocate for the petitioner and of MR.S.MANIKANDAN, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Sessions Judge, Mahila Court, Pudukkottai, dated 15.03.2022, in S.C.No.85 of 2019 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.



2.The learned counsel for the petitioner submitted the petitioner, who is the sole accused in this case, has been found guilty and convicted by the learned Sessions judge, for the offence under Section 376(1) of IPC and sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo simple imprisonment for a period of one year, in S.C.No.85 of 2019 on the file of the learned Sessions Judge, Mahila Court, Pudukkottai. Set off under Section 428 Cr.P.C. was also ordered.

3.The case of the prosecution in brief:

The Complainant namely Jaya is aged about 45 years. The accused Surendhar is aged about 20 years. Both belongs to the very same village. The complainant Jaya separated from her husband from 10 years back. Now, she is living along with her son and mother. On 14.01.2019 at about 06.00 p.m., when the complainant was grazing goat near Mellappattu Pillayar Temple, North Kanmaikarai, the accused person took the complainant by lifting her, damaging her clothes, raped her, also committed unnatural sex assault and threatened her not to disclose about the said occurrence to any one. Based upon the above said complaint, the case was registered and during the course of trial 7 witnesses have been examined and 11 documents were marked. Apart from that three material objects were also marked.

4.At the conclusion of the trial, the trial Court found the petitioner guilty under Section 376 (1) IPC and had sentenced to undergo 10 years rigorous imprisonment and imposed a fine of Rs.5,000/-. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner. Pending appeal, this petition has been filed seeking suspension of sentence.

5.The learned counsel for the petitioner would submit that the event spoken by the PW1, who is the victim and the prosecution is totally unreliable and absolutely, it is against the probability. According to him, this petitioner is aged about 23 years and it is unbelievable that he can lift the victim, who is aged about 40 years; medical evidence is not supporting the case of the prosecution and even as per the statement of PW1, the complaint was written by the son; There are some alterations in the complaint, which are material in nature. The eyewitness, who was stated to be the witness to the occurrence, supported the defence version. Because of some motive, this case has been foisted and apart from that he would also submit that examination is going to be commenced for the petitioner shortly.

6.Per contra, the learned Additional Public Prosecutor would submit that even as per the materials collected during the course of investigation, the character of the petitioner is not good and apart from that the case has been proved beyond reasonable doubt before the trial Court. So no interference is called for for suspending



7. Heard both sides and perused the records.

8. The medical examination report has shown no external injuries on the private part of PW1. But however, nail marks were found in the neck portion and hands; no trace of sperm was found in the vaginal smear. Reading of the statement of the PW1 shows that she was sexually assaulted and raped. Even though there was no external injuries on the private parts of the victim, nail marks were available. The learned counsel for the petitioner would submit that those marks would have been sustained even during the course of grazing the goats. This is a matter for consideration during the appeal. The external injuries that was found on the neck portion corroborates the occurrence. Only a remote previous motive has been suggested to the PW1.

9. Considering the gravity of the allegation, if the petitioner is released on bail after suspending the sentence, he may again cause trouble to the victim. So this is not a fit case to exercise the jurisdiction to suspend the sentence. Therefore, this petition deserves to be dismissed and accordingly, **dismissed.**

sd/-

22/09/2022

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/09/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SESSIONS JUDGE,
MAHILA COURT, PUUDKKOTTAI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, ARANTHANGI,
PUDUKKOTTAI DISTRICT
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.4874 of 2022
in

CRL A(MD) No.286 of 2022

Date : 22/09/2022

tm

PKP/VR/SAR-1/30.09.2022/3P/4C

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