



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Tuesday, the Twelfth day of July Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6276 of 2022

IN

CRL A(MD)NO.361 of 2022

KAMARAJ

(NOW CONFINED AS CONVICT PRISONER
IN MADURAI CENTRAL PRISON)

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI, DINDIGUL DISTRICT
(CRIME NO. 02 OF 2019)

... RESPONDENT/COMPLAINANT

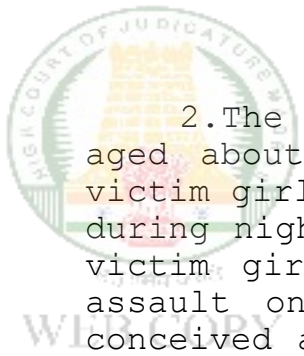
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed against the petitioner and release him on bail pending disposal of the main Criminal Appeal before this Hon`ble Court against the judgment of the Hon`ble Sessions Judge, Fast Track Mahila Court, Dindigul in Special S.C.No. 38 of 2019 dated 10/11/2021.

PRAYER IN CRL A(MD)No. 361 of 2022:

Pleased to call for the entire records connected with the judgment rendered by the Hon'ble Sessions Judge, Fast Track Mahila Court,Dindigul in Special S.C.No. 38 of 2019 dated 10/11/2021 and set aside the same and consequently acquit the appellant.

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.R.PRAKASH, Advocate for the petitioner and of MR.B.NAMBI SELVAN,Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.38 of 2019, dated 10.11.2021, till the disposal of the appeal.



2.The case against the petitioner is that the victim is aged about 12 years, who studied VII Standard, that usually the victim girl sleeps along with her father/the petitioner herein; that during night hours the accused with an sexual intention touched the victim girl and also had committed aggravated penetrative sexual assault on several occasions, consequently, the victim girl got conceived and on the basis of the complaint lodged, FIR came to be registered in Crime No. 2 of 2019, for the offence under Sections 5 (l), (m), (n), (j) (ii) r/w 6 of Protection of Children from Sexual Offences Act, 2012.

3.During trial, 17 witnesses have been examined as P.W.1 to P.W.17 and 14 documents were exhibited as Ex.P.1 to Ex.P.14 and whereas, the accused had adduced neither oral nor documentary evidence.

4.The learned Sessions Judge (Fast Track Mahila Court), Dindigul, upon considering the evidence adduced and on hearing the arguments of both the sides has passed the impugned judgment on 10.11.2021, convicting the petitioner/accused under Section 5(l), (n), (j) (ii) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default to undergo six months simple imprisonment. The petitioner/accused, challenging the above judgment of conviction and sentence, has preferred the appeal along with above application for suspension of sentence.

5.The learned counsel appearing for the petitioner submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. He further submitted that the P.W.1 and P.W.2 including the victim had turned hostile.

6.The learned Additional Public Prosecutor appearing for the State would submit that the grounds raised by the petitioner are vague and unsustainable; that the trial Court after careful consideration of oral and documentary evidences as well as the medical reports has rightly convicted the petitioner. He further submitted that the pregnancy of victim girl got aborted and DNA test was conducted and that they have given a clear opinion that the petitioner was the biological father of the foetus.

7.Considering the above facts and circumstances and also the seriousness and gravity of the offence alleged, this Court is not inclined to suspend the sentence imposed, at this point of time.



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CRL MP(MD)



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8. Accordingly, the Criminal Miscellaneous Petition is dismissed.

sd/-
12/07/2022

/ TRUE COPY /

/07/2022

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

TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALANI, DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT
CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.6276 of 2022
IN
CRL A(MD)NO.361 of 2022
Date :12/07/2022

DAS
PKP/JM/SAR -2/18.07.2022/2P/5C