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CRL MP(MD)



22

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

Wednesday, the Twentieth day of July Two Thousand and Twenty Two
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.6234 of 2022

IN

CRL A(MD) No.359 of 2022

GOPAL @ GOPALAKRISHNAN

... APPELLANT/ACCUSED NO.1

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

ALL WOMEN POLICE STATION,

USILAMPATTI.

CRIME NO.36 OF 2013.

... 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 and conviction imposed by the Learned Sessions Judge, Mahalir Neethimandram, Madurai Dated 20.05.2022 in SC.No.59 of 2014 and enlarge the Petitioner on bail, pending disposal of the main Appeal.

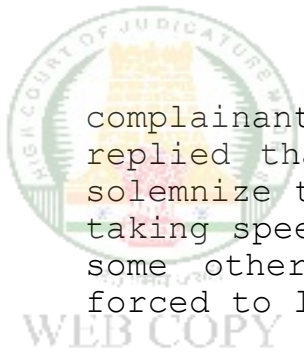
Prayer in CRL A(MD)No.359 of 2022 :

To call for the records to allow this appeal and set aside the impugned judgment of conviction and sentence passed by the Learned Sessions Judge, Mahalir Neethimandram, Madurai dated 20.05.2022 in S.C.No.59 of 2014.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.N.DILIP KUMAR, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence passed in S.C.No.59 of 2014, dated 20.05.2022, on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai, till the disposal of this Criminal Appeal.

2.The case of the prosecution is that the petitioner/first accused is the neighbour of the defacto complainant/victim girl, that the petitioner, by giving false promise that he would marry her, had sexual intercourse with her for more than 10 times, that the parents of the petitioner and his elder brother had demanded 15 sovereigns of gold jewels to solemnize the marriage between the defacto complainant and the petitioner, that when the defacto



complainant disclosed the demand made by them, the petitioner replied that if she fulfil the demand of dowry his parents would solemnize the marriage, that the parents of the petitioner have been taking speedy steps to solemnize the marriage of the petitioner with some other girl and that therefore the defacto complainant was forced to lodge the complaint.

3. On the basis of the complaint lodged by the defacto complainant, FIR came to be registered in Crime No.36 of 2013 against the petitioner and others for the alleged offences under Sections 376 and 417 of IPC and Section 4 of TNPHW Act.

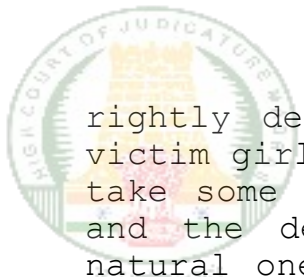
4. The respondent, after completing the investigation, has filed a final report and the case was taken on file in S.C.No.59 of 2014.

5. During the trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14 and exhibited 8 documents as Ex.P.1 to Ex.P.8, whereas, the defence has examined 1 witness as D.W.1 and not adduced any documentary evidence.

6. The learned Sessions Judge, upon considering the evidence and on hearing the arguments advanced by both the sides, has passed the impugned judgment dated 20.05.2022 convicting the petitioner/first accused for the offences under Sections 376 and 313 IPC and sentenced him to undergo ten years rigorous imprisonment for each offence and to pay a fine of Rs.1,000/-, in default, to undergo one year simple imprisonment for each offence and also convicting the petitioner/first accused for the offence under Section 417 IPC and sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo one month simple imprisonment and that the above sentences were ordered to be run concurrently. Aggrieved by the said judgment of conviction and sentence, the petitioner preferred the present appeal along with the above application for suspension of sentence.

7. The learned counsel for the petitioner would submit that there is inordinate delay in lodging the complaint and in registering of the FIR, that previous complaints given in respect to the alleged occurrence have been suppressed by the investigating agency, that there are no other corroborating evidence or material to support the version of the defacto complainant, that the victim girl has given 4 different versions at difference stages of the case and that the trial Court ought not to have convicted the petitioner by solely relying upon the solitary statement of the prosecutrix.

8. The learned Additional Public Prosecutor would submit that initially P.W.1 and other witnesses were not cross-examined, that subsequently after getting orders from this Court, witnesses were cross-examined by the trial Court, that the trial Court has specifically observed that the evidence of P.W.1 stands corroborated by the evidence of P.W.4 and P.W.6, that the trial Court has also



rightly dealt with the delay aspect and gave a finding that the victim girl will have hesitation to lodge the complaint and it might take some time to go to police station for preferring a complaint and the delay in lodging the complaint in the present case is natural one and is not fatal to the prosecution and that the trial Court has specifically held that the evidence of prosecutrix is clear and cogent and is believable and as such, there is no need for any corroboration.

9. Considering the above facts and circumstances and also the seriousness and gravity of the offence alleged against the petitioner and also the fact that the petitioner is in incarceration from the date of judgment i.e., on 20.05.2022, this Court is not inclined to suspend the sentence imposed on the petitioner.

10. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-
20/07/2022

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/07/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM, MADURAI.

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
USILAMPATTI, MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-7534[I] dated 22/07/2022)

ORDER IN

CRL MP(MD) No.6234 of 2022
IN

CRL A(MD) No.359 of 2022

Date :20/07/2022