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CRL MP(MD)



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
RESERVED ON : 04.07.2022
PRONOUNCED ON : 14.07.2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR
CRL MP(MD) No.6989 to 6992 of 2022

in

CRL A(MD) No.391 of 2022

RAJAMBAL	... PETITIONER/1ST APPELLANT/ACCUSED NO.2 IN CRL MP(MD) .6989/2022
KAMALA JOTHI	... PETITIONER/2ND APPELLANT/ACCUSED NO.3 IN CRL MP(MD) .6990/2022
MURUGESAN	... PETITIONER/3RD APPELLANT/ACCUSED NO.4 IN CRL MP(MD) .6991/2022
NARAYANA SAMY	... PETITIONER/5TH APPELLANT/ACCUSED NO.5 IN CRL MP(MD) .6992/2022

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION - PUDUKOTTAI,
PUDUKOTTAI,
PUDUKOTTAI DISTRICT.
(CRIME NO.5 OF 2018) ... RESPONDENT/RESPONDENT/DEFACTO COMPLAINANT
IN ALL PETITIONS

Prayer in CRL MP(MD) .6989/2022 :

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 on the petitioner by the Sessions Judge, Mahila Court, Pudukkottai in Special Sessions Case No.26 of 2018, Dated 14.06.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL MP(MD) .6990/2022 :

To Suspend the sentence imposed on the petitioner by the Sessions Judge, Mahila Court, Pudukkottai in Special Sessions Case No.26 of 2018, Dated 14.06.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

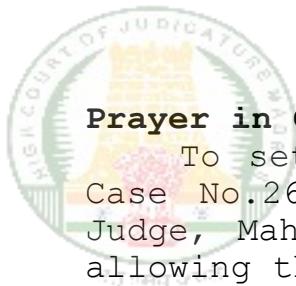
Prayer in CRL MP(MD) .6991/2022 :

To Suspend the sentence imposed on the petitioner by the Sessions Judge, Mahila Court, Pudukkottai in Special Sessions Case No.26 of 2018, Dated 14.06.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

Prayer in CRL MP(MD) .6992/2022 :

To Suspend the sentence imposed on the petitioner by the Sessions Judge, Mahila Court, Pudukkottai in Special Sessions Case No.26 of 2018, Dated 14.06.2022 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

<https://www.mhc.in.gov.in/judis>

**Prayer in CRL A(MD).391/2022 :**

To set aside the sentences and conviction in Special Sessions Case No.26 of 2018 dated 14.06.2022 on the file of the Sessions Judge, Mahila Court, Pudukkottai against the Accused No.2 to 5 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 M/S.V.KATHIRVELU, Senior Counsel for M/S.A.HAJA MOHIDEEN, Advocate for the petitioners in all petitions and of M/S.B.NAMBI SELVAM, Additional Public Prosecutor on behalf of the Respondent in all petitions, while admitting the Criminal Appeal, the court made the following order:-

These Criminal Miscellaneous Petitions have been filed to suspend the sentence passed in Spl.S.C.No.26 of 2018, dated 14.06.2022, on the file of the learned Sessions Judge, Mahila Court, Pudukkottai, till the disposal of this Criminal Appeal.

2.The case of the prosecution is that the first accused and the defacto complainant are divorcees, that the first accused, without informing about the same, had lived with the defacto complainant as husband and wife, that the first accused and the petitioners, who are the accused 2 to 5, had obtained money from the defacto complainant on several times and had been living in the income of the defacto complainant, that by demanding dowry, they had caused mental stress to her, that in order to obtain money from the defacto complainant, the accused told her that the first wife of the first accused demanded Rs.5 lakhs as settlement for her maintenance and compelled her to part with the said amount, that when the defacto complainant was in Singapore, the first accused had attracted the victim girl by talking cunningly, that by suppressing his first marriage as well as his second marriage with the defacto complainant, he had created an image as if he was not married and made the victim girl to believe the same, that the first accused with the help of the other accused had kept the victim girl in the fourth accused's house and at that time, he had taken a photo with the victim girl in his cell phone and that by using the said photo, the first accused induced the victim girl to marry him. Hence, FIR came to be registered in Crime No.5 of 2018 for the offences under Sections 417, 420, 494, 376(1), 406, 498(A)(b), 506(1) IPC and 11(1) r/w 12 of the POCSO Act.

3.The respondent police, after completing the investigation, has laid the final report for the offences under Sections 417, 420, 494, 376(1), 406, 498(A)(b), 506(1) IPC and 11(1) r/w 12 of the POCSO Act.

4.During the trial on the side of the prosecution, 14 witnesses have been examined as P.W.1 to P.W.14, 26 documents



have been exhibited as Ex.P.1 to Ex.P.26 and 2 material objects marked as M.O.1 and M.O.2 and on the side of the accused, 2 witnesses have been examined as D.W.1 and D.W.2, 15 documents have been exhibited as Ex.D.1 to Ex.D.15 and no material object was marked.

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5. The learned Sessions Judge, after considering the evidences adduced and the arguments advanced by both the sides, has passed the impugned judgment dated 14.06.2022 convicting the accused 2 to 5 and sentenced them as follows:-

Accused	Provision under which convicted	Sentence
A2-Rajambal	under Section 420 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 498(A) (b) IPC	to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.30,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 494 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 495 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 496 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year



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Accused	Provision under which convicted	Sentence
A3-Kamala Jothi	under Section 498(A) (b) IPC	to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.30,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 494 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 495 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 496 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year



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Accused	Provision under which convicted	Sentence
A4-Murugesan	under Section 420 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 494 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 495 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 496 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year



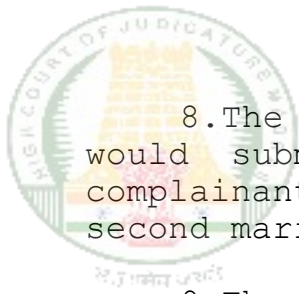
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Accused	Provision under which convicted	Sentence
A5-Narayana Samy	under Section 420 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 498 (A) (b) IPC	to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.30,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 494 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 495 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year
	under Section 496 r/w 109 IPC	to undergo rigorous imprisonment for 4 years and to pay a fine of Rs.40,000/- in default to undergo rigorous imprisonment for 1 year

6. Aggrieved by the said judgment of conviction and sentence, the accused 2 to 5 have preferred the present appeal along with the above criminal miscellaneous petitions for suspension of sentence.

7. Admittedly, the second accused is the mother, third accused is the sister, fourth accused is the brother and the fifth accused is the uncle of the first accused.



8.The learned Senior counsel appearing for the petitioners would submit that the first accused as well as the defacto complainant were the divorcees and they have entered into their second marriage in Singapore.

9.The learned Additional Public Prosecutor would submit that though the defacto complainant has informed her divorce from her first husband to the first accused, but he has completely suppressed his first marriage and his consequent divorce. He would further submit that the first accused had received so much of amount from the defacto complainant by alleging one reason or other.

10.Considering the above facts and circumstances and also the nature of charges levelled against the present petitioners and also the facts that they are in incarceration from the date of judgment i.e., on 14.06.2022 and that they are not having any bad antecedents, this Court is inclined to suspend the sentence as against the petitioners.

11.In the result, these Criminal Miscellaneous Petitions are allowed. Accordingly, the relief of suspension of sentence and bail is granted to the petitioners on the following conditions:-

(i) The petitioners shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Pudukkottai;

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioners shall report before the trial Court at 10.30 a.m., on first and third Monday of every month until further orders.

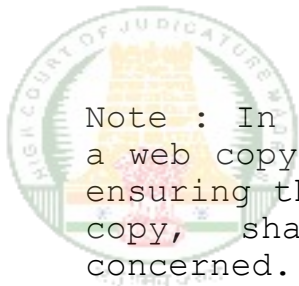
sd/-

14/07/2022

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15/07/2022

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, 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.

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- TO
- 1 THE SESSIONS JUDGE, MAHILA COURT, PUDUKKOTTAI.
 - 2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION - PUDUKKOTTAI, PUDUKKOTTAI, PUDUKKOTTAI DISTRICT.
 - 3 THE SUPERINTENDENT, WOMAN PRISON, TRICHY.
 - 4 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +4 CC to M/s.A.HAJA MOHIDEEN, Advocate (SR-7120[I], SR-7121[I], SR-7122[I], SR-7123[I] dated 14/07/2022)

ORDER
IN
CRL MP(MD) No.6989 to 6992 of 2022
in
CRL A(MD) No.391 of 2022
Date :14/07/2022

RS/PN/SAR.1 (15.07.2022) 8P-10C