



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

RESERVED ON	21.07.2022
PRONOUNCED ON	22.07.2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR**CRL MP(MD) No.7264 of 2022****IN****CRL A(MD) No.400 of 2022**

SEKAR

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
SILAIMAN CIRCLE,
KARUPPAYURANI POLICE STATION,
MADURAI DISTRICT
(CRIME NO. 192 OF 2010)

... RESPONDENT/RESPONDENT

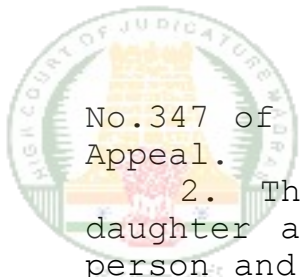
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to grant an order of suspension of sentence imposed against the Petitioner/Appellant/Accused No.2 in the conviction judgement passed in Sessions Case No. 347 of 2013 on the file of the learned Sessions Judge, Mahalir Neethirmandram, Madurai dated 25.05.2022 and enlarge the Petitioner/Appellant/Accused No.2 on bail, pending disposal of the Criminal Appeal.

Prayer in Crl A(MD)No.400 of 2022:

Pleased to call for the records relating to Sessions Case No.347 of 2013 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai dated 25.05.2022 and set aside the same in so far as the Appellant/Accused No.2 and to acquit the Appellant/Accused No.2 by allowing the present 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.VEERANASAMY S, Advocate for the petitioner and of Mr.B.NAMBI SELVAN, Additoinal 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 on the petitioner/accused by the learned Sessions Judge, Mahalir Neethimandram, Madurai, in Sessions Case



No.347 of 2013, dated 25.05.2022, till the disposal of the Appeal.

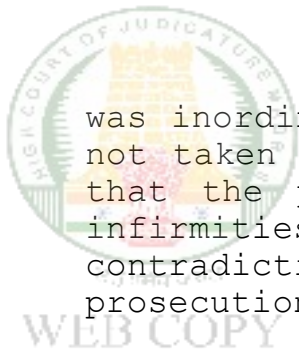
2. The case of the prosecution is that the complainant's daughter aged about 24 years, was a partially mentally challenged person and she was taking training at Special Training Institute at Shenoy Nagar, Madurai, that as usual on 23.03.2010 at about 05.30 p.m., she returned to Suguna Store by bus and while she was proceeding to her house by walking, the first accused, who was residing in the opposite house of the complainant, picked up her in his bicycle near Kani Store, Maruthupandiar Street as if he will drop her in the house, taken her to a remote area at Jubilee Town near Vandiyur, where the accused had sexually assaulted her again and again, that the victim girl was brought to her by passers by seeing the ID card, that there was heavy bleeding to the victim girl and she fell ill and that on information given by her, complaint was lodged and on that basis, FIR came to be registered in Crime No.192 of 2010 for the offence under Sections 366 and 376 IPC. The respondent after completing the investigation, has laid the final report against the petitioner/A2 for the offence under Sections 120 (b), 376, 366 r/w 34 IPC and the case was taken on file in S.C.No.347 of 2013 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai.

3. During the trial, the prosecution has examined 14 witnesses as P.W.1 to P.W.14, exhibited 20 documents as Ex.P1 to Ex.P20 and 7 material objects as M.O.1 to M.O.7, whereas, the accused have adduced neither oral nor documentary evidence.

4. After completing the trial, the learned Sessions Judge found the petitioner/A2 guilty and convicted him for the offence under Sections 120B, 366 r/w 34 and 376 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. Aggrieved by the said Judgment of conviction and sentence, the petitioner/A2 has preferred the present appeal along with the above Miscellaneous Petition seeking suspension of sentence.

5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

6. The learned counsel for the petitioner would submit that the petitioner/A2 has been falsely implicated in the above case without any iota of evidence, that the evidence of P.W.1 and P.W.2, the parents of the victim girl and their evidence is only hearsay, that though P.W.3, P.W.4 and P.W.9 have not supported the case of the prosecution, the trial Court believed their evidence erroneously and convicted the petitioner, that the trial Court itself has specifically observed that there were defects in the investigation, and erroneously gave a finding against the petitioner and that there



was inordinate delay in lodging the complaint and the same not taken into account by the trial Court. He would further submit that the petitioner would further submit that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

7.The learned Additional Public Prosecutor for the respondent would submit that the material evidence of P.W.3, P.W.4 and P.W.9 have no reasons to implicate the accused falsely, that the defence has not even suggested anything against the accused on the basis of any motive or ill-will, that P.W.9 has specifically implicated the involvement of the petitioner/A2, that the evidence of P.W.3, P.W.4 and P.W.9 is believable and trust worthy and that the trial Court has rightly convicted the accused including the petitioner. He would further submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

8.Considering the above facts and circumstances of the case and also considering the seriousness and gravity of the offence alleged against the petitioner and also the fact that the petitioner has been in incarceration from the date of Judgment i.e., on 25.05.2022, this Court is not inclined to grant suspension of sentence to the petitioner at this point of time.

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

sd/-

22/07/2022

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

TO

1 THE SESSIONS JUDGE, MAHALIR NEETHIMANDRAM, MADURAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
SILAIMAN CIRCLE,
KARUPPAYURANI POLICE STATION, MADURAI DISTRICT.

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

ORDER IN

CRL MP(MD) No.7264 of 2022 IN
CRL A(MD) No.400 of 2022

Date :22/07/2022