



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

Wednesday, the Nineteenth day of October Two Thousand and Twenty Two

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.9017 of 2022
in
CRL A(MD) No.480 of 2022

ANDAVAN

... APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
DINDIGUL TALUK POLICE STATION,
DINDIGUL DISTRICT.
(CRIME NO.575 OF 2015)

... 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 in S.C No.284 of 2018 on the file of the Honble Fast Track Mahila Judge court, Dindigul dt. 04.03.2022 and release petitioner on bail till the disposal of the appeal.

Prayer in CRL A(MD)No.480 of 2022 :

To call for the entire records connected to the judgment in S.C.No.284 of 2018 on the file of the Hon'ble Fast Track Mahila Judge Court, Dindigul dated 04.03.2022 and set aside the conviction and sentence imposed against 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 M/S.ALAGUMANI.R, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Fast Track Mahila Judge Court, Dindigul, in S.C.No.284 of 2018, dated 04.03.2022 and enlarge the petitioner on bail, pending disposal of the main appeal.

2.The case of the prosecution in brief:-

On 08.06.2015, during the night hours, the victim girls, namely, Gowri and Piramila, who were working in the Primary Health Centre situated at M.M.Kovilur, were attending the night duty in the Centre. On 09.06.2015, at about 2.00 p.m., the accused persons



alleged to have break opened the door entered into the Primary Health Centre and made a threat to the victims by showing knife, committed rape upon the victims and took away silver anklets and gold chain and thereby committed robbery. Based upon the above said occurrence, the case was registered by the respondent police in Crime No.575 of 2015, for the offences under Sections 457, 392 and 376 IPC.

3.On the side of the prosecution before the trial Court, 15 witnesses have been examined, 15 documents were marked and 9 materials objects were marked. On the side of accused one witness has been examined and no documents was marked.

4.At the conclusion of the trial, the Trial Court found the petitioner guilty and convicted the accused for the offence under Section 457 IPC and sentenced him to undergo three years of Rigorous Imprisonment and imposed fine amount of Rs.1,000/-, in default to under go three months of simple Imprisonment, under Section 397 IPC and sentenced him to undergo seven years of Rigorous Imprisonment and under Section 376 IPC and sentenced him to undergo ten years of Rigorous Imprisonment and imposed fine amount of Rs.10,000/-, in default to undergo six months of simple imprisonment. Challenging the above said conviction and sentence, the main appeal has been preferred. Pending the main appeal, this petition came to be filed to suspend the sentence.

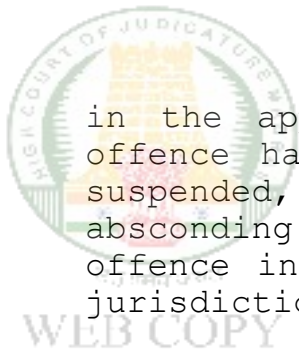
5.Heard both sides.

6.The learned counsel for the petitioner submitted that the date of the alleged occurrence is 09.06.2022, the compliant was lodged and FIR was registered only after three days of the occurrence. He further submitted that even as per the evidence of Doctor, no injury was found on the private parts of the victim girls. According to the learned counsel for the petitioner these are the main defects, which were not properly discussed by the trial Court.

7.The learned Additional Public Prosecutor submitted that this is the case of robbery coupled with the commission of rape upon the two victims and the judgment of conviction is a recent origin and prayed for dismissal of the suspending the sentence petition.

8.On perusal of judgment of the trial Court shows that the robbery apart from rape have been committed upon the two victims, who are the innocents persons working in the primary health centre situated at M.M.Kovilur. On 09.06.2015, during the night hours, the accused had broke open the door and committed rape upon the two victims and also robbed their silver anklets and gold chain.

9.Whether in the light of the evidence of Doctor, no offence has been committed under Section 376 IPC, the same can be considered



in the appeal. Considering the manner in which, the ab offence has been committed by the petitioner, if the sentence is suspended, there is every likelihood of is a possibility of absconding and no guarantee that he will not commit the similar offence in future also. So this is not a fit case to exercise the jurisdiction to suspend the sentence.

10. Accordingly, this Criminal Miscellaneous Petition is **dismissed** and the petitioner must face the appeal proceedings in custody. Since the appeal was admitted, the Registry is directed to prepare a typed set of papers and list the appeal for final hearing on 14.11.2022.

sd/-
19/10/2022

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/10/2022

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

TO

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

COPY TO
THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.9017 of 2022
in
CRL A(MD) No.480 of 2022
Date :19/10/2022

tta
RS/VR/SAR.2(26.10.2022) 3P-6C