



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

Monday, the Twenty Sixth day of September Two Thousand and
Twenty Two

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PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.9195 of 2022
in
CRL.A.(MD)No.488 of 2022

LAKSHMANAN

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KULITHALAI,
KARUR DISTRICT.
(CRIME NO. 3 OF 2020).

... RESPONDENT/RESPONDENT

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 appellant by the learned Additional Sessions Judge/Fast Track Mahila Court, Karur in S.C.No. 31/2020 Dated. 12.07.2022 and release the accused on bail pending disposal of the Appeal.

PRAYER IN CRL.A. (MD)No.488 of 2022 :

Pleased to set-aside the judgment of the learned Additional Sessions Judge/Fast Track Mahila Court, Karur in S.C.No.31/2020, dated 12.07.2022 found guilty under sectio 376(1) IPC and convicted and Sentenced to undergo Ten years imprisonment and to pay a fine of Rs.1000/- in default of payment of to undergo one year simply imprisonment for the offence u/s.376(1) IPC and allow this appeal and 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 M/S.MUTHUKRISHNAN.S, Advocate for the petitioner and of MR.RMS.SETHURAMAN, Additional Public Prsecutor on behalf of the Respondent, while admitting the Crl.Appeal, the court made the following order:-

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



This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the learned Additional Sessions Judge/Fast Track Mahila Court, Karur, in S.C.No.31 of 2020, dated 21.07.2022 and enlarge the petitioner on bail, pending disposal of the main appeal.

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2. The case of the prosecution in brief:-

The defacto complainant and the accused person are college-mate. They had love affair. When she was studying M.A English literature, the accused person came to her house for getting Laptop. At that time, she was subjected to penetrative sexual assault and that was continued for several times. Based upon the above said occurrence, case was registered.

3. To prove guilt of the accused, the prosecution examined 8 witnesses and 13 documents marked and apart from that, 5 Material Object have also been exhibited. On the side of the defence, no witness was examined and no document marked.

4. At the conclusion of trial, the Trial Court found the petitioner guilty and convicted him for the offence under Section 376(1) of IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for a period of 1 year. The above sentences were ordered to be run concurrently. Since he was convicted under major offence, no separate punishment was imposed under Section 417 of IPC. He was taken to custody on the date of judgment. Aggrieved by the said judgment of conviction and sentence, the petitioner preferred the present appeal along with the above application for suspension of sentence.

5. The learned counsel for the petitioner would submit that even as per the allegation made in the complaint, no offence under Section 376 IPC is made out since according to him, it is consensual in nature because the victim girl and the petitioner were major at the time of alleged occurrence.

6. The learned Additional Public Prosecutor would submit that only under false promise of marriage, he committed rape repeatedly. He would rely upon the evidence of P.W.1 on this aspect.

7. Heard both sides.

8. The judgment is of the recent origin 12th July 2022. Reading of the evidence of P.W.1 shows that she was subjected to sexual intercourse under false promise against her will and some sort of unnatural sexual assault was also committed by the petitioner. Further, it shows that after the above said occurrence, they have frequent to see each other and visit several places. After knowing their relationship, their parents arranged marriage and



promise was also made by the grand mother of the petitioner. The above said sexual relationship also continued. In 2019, he informed the victim girl that horoscope did not match and she may marry some other person. Again, promise was made by the family members. Later, they delayed to perform the marriage. So, she attempted to commit suicide on 06.02.2020. Thereafter only, complaint was given. The suggestion was made to the effect that it is consensual in nature. Reading of the evidence of P.W.1 shows that continuously there was marriage proposal. Later, failed and their relationship was permitted by the parents of the victim girl. During the medical examination, no sperm was found.

9. Considering the above said factual aspect and also gravity of the allegation made, this Court is not inclined to grant suspension of sentence since the judgment is of the recent origin.

10. Accordingly, this Criminal Miscellaneous Petition is **dismissed**.

sd/-
26/09/2022

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/09/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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

ORDER
IN
CRL MP(MD) No.9195 of 2022
in
CRL.A.(MD) No.488 of 2022
Date :26/09/2022

DSS
USK/SBN/SAR-I/29.09.2022/3P/5C

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