



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

Monday, the Third day of January Two Thousand and Twenty Two
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.11362 of 2021

IN

CRL A(MD) No.378 of 2021

ELANGO VAN

... PETITIONER/APPELLANT

Vs

1 THE DEPUTY SUPERINTENDENT OF POLICE,
KARUR SUB DIVISION,
KARUR DISTRICT.
(KARUR ALL WOMEN POLICE STATION
CR.NO. 1 OF 2019)

2 DEEPA

... RESPONDENTS/RESPONDENTS

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 in SC.No.44 of 2019 dt.31.8.2021 on the file of the Sessions Judge, Karur and enlarge the Petitioner on bail pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD) No.378 of 2021:

To call for the records and to set aside the order passed by the Sessions Judge, Karur in S.C.No.44/2019 date 31.08.2021 and thus render justice.

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.KANNAN V, Advocate for the petitioner and of MR.R.M.ANBUNITHI, ADDITIONAL PUBLIC PROSECUTOR on behalf of the Respondent No.1, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Karur in S.C.No.44 of 2019 dated 31.08.2021, till the disposal of the appeal.

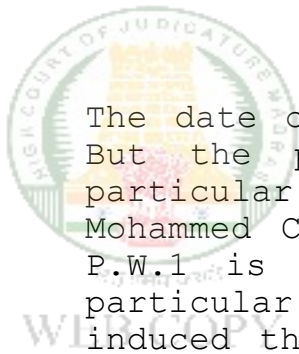
2.The case against the petitioner is that the accused is working as a Professor in Economics Department and he is the head of the department. On 09.03.2019, at about 09.00 a.m., witness Deepa lost her ID card and she informed the Head of the Department about the missing of the ID card. Afterwards witness Deepa and her friends went to the room of the accused to handover the record notes. At that time, the accused had shown a gesture to Deepa to stay there



and after her friends left the room, he closed the main door and took the ID card of witness Deepa from the drawer of his table and worn the ID card on her neck and he pinched her hip and sexually assaulted her. On 25.03.2019, at about 03.00 p.m., the father of the witness gave a complaint against the accused and the accused threatened him and insulted him by uttering his caste name. Again on 08.03.2019, at about 01.00 p.m., the petitioner sexually assaulted witness Monicka. On 14.03.2019, at about 12.30 p.m., the petitioner gave sexual harassment to witness Divya. On 09.01.2019, the petitioner gave sexual harassment to Helan. On 20.12.2018, at about 01.00 p.m., the petitioner gave sexual harassment to witness Kavitha. A case was filed against the petitioner in Crime No.1 of 2019 under Sections 354(A) (5 counts), 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act (5 counts) and 3(1)(r)(s), 3(1)(w)(i) and (ii) of SC/ST (POA) Act (2 counts). Chargesheet was filed and the same was taken on file as Session Case No.44 of 2019 on the file of the learned Sessions Judge, Karur.

3.After trial, the learned Sessions Judge, Karur found the petitioner guilty and convicted the petitioner and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) for each count, in default to undergo three months simple imprisonment for the offence under Section 354(A) of IPC (5 counts), sentenced him to undergo three years rigorous imprisonment for each count for the offence under Section 4 of Tamil Nadu Prohibition of Harassment of Woman Act and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo one month simple imprisonment for the offence under Section 506(i) of IPC, sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo three months simple imprisonment for the offence under Section 3(1)(r)(s) of SC/ST (POA) Act, sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) for each count in default to undergo three months simple imprisonment for the offence under Section 3(1)(w)(i) of SC/ST (POA) Act and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) for each count in default to undergo three months simple imprisonment for the offence under Section 3(1)(w)(ii) of SC/ST (POA) Act and further the accused was directed to pay a compensation of Rs.1,00,000/- to each of the victims within a period of one month. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.378 of 2021 and along with the appeal, they filed this petition for suspension of sentence.

4.On the side of the petitioner, it is stated that the petitioner was working as the head of the Department in the Government Arts College, Karur. The occurrence is said to have taken place on 09.03.2019. FIR was registered only on 26.03.2019 after a delay of 17 days and the delay is not explained by the prosecution.



The date of occurrence as per the version of P.W.5 is 20.12.2018. But the petitioner was not available in the station on the particular date. He was attending paper correction work in Jamal Mohammed College from 18.12.2018 till 20.12.2018. The evidence of P.W.1 is clear regarding the absence of the petitioner on the particular date. A Junior Professor who is trying to get promotion induced the witnesses to lodge a false complaint. The chargesheet ought to have been filed within a period of 60 days from the date of FIR. There is a delay in filing the chargesheet. The chargesheet was filed, after a lapse of four months. The petitioner is in custody for the past two months. Before the trial, he was in custody for 98 days. Fine amount was already paid. The petitioner is in custody for the past four months and the earlier petition filed by the petitioner was dismissed only on the ground that the judgment was the recent one. Out of the total period of conviction, the petitioner has already suffered seven month in custody including the period of custody at the time of investigation and prayed the sentence to be suspended till the disposal of the appeal.

5. On the side of the prosecution, it is stated that the petitioner is a Professor and the offence is serious in nature. There are five victims in this case. All the five victims are students. Only fine amount was paid by the petitioner. The compensation amount was not yet deposited. The prosecution has examined 16 witnesses and marked 11 documents. Only after examining the oral and documentary evidence, the learned Sub Judge has convicted the petitioner. Two of the victims belong to the SC/ST community. The evidence of P.W.1 to P.W.5 clearly establish the guilt of the petitioner and prayed the petition to be dismissed.

6. A perusal of the records reveals that the petitioner was convicted on 31.08.2021 and he is in custody for the past four months.

7. Considering the above facts and circumstances of the case and considering that there are some arguable points for consideration in the main appeal and also considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

8. Accordingly, the substantive sentence of imprisonment alone is suspended and the petitioner is ordered to be released on bail on the following conditions:-

(i) The petitioner shall deposit the compensation amount to the credit of S.C.No.44 of 2019, before the learned Sessions Judge, Karur.

(ii) On deposit of the aforesaid amount, the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand) for the purpose of ensuring his appearance in court.



thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge and Special Court for PCR, Karur.

(iii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their valid identity card to ensure their identity.

(iv) The petitioner shall appear before the trial Court daily at 10.30 a.m., until further orders.

(v) On such deposit, the learned Sessions Judge and Special Court for PCR, Karur, shall re-deposit the compensation amount in any Nationalised Bank, so that, the amount accrues interest and the same can be disbursed depending upon the outcome of the Criminal Appeal in Crl.A.(MD) No.378 of 2021.

(vi) If the aforesaid condition is not complied, the order of suspension of sentence stands automatically cancelled.

sd/-
03/01/2022

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

TO

- 1 THE SESSIONS JUDGE AND SPECIAL COURT FOR PCR,
KARUR.
- 2 THE DEPUTY SUPERINTENDENT OF POLICE,
KARUR SUB DIVISION, KARUR DISTRICT.
(KARUR ALL WOMEN POLICE STATION)
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.V.KANNAN, Advocate (SR-6[I] dated 03/01/2022)

ORDER IN
CRL MP(MD) No.11362 of 2021
Date :03/01/2022