



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

Monday, the Seventh day of November Two Thousand and Twenty Two

PRESENT

**The Hon`ble Mr.Justice G.ILANGO VAN**

CRL MP(MD) No.13186 of 2022  
IN  
CRL.A. (MD) NO.704 OF 2022

SULTHAN MYDEEN

... PETITIONER/APELLANT

Vs

THE STATE REP. BY,  
THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
PALANI, DINDIGUL DISTRICT.  
CR.NO.6/2019.

... 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 of imprisonment imposed in S.C.No.90/2020 on the file of he learned Mahalir Court (Fast Track Court) Dindigul, dated 29.09.2022 and enlarge the petitioner appellant on bail pending disposal of the above said Crl.Appeal.

**PRAYER IN CRL.A. (MD) NO.704 OF 2022 :**

Pleased to call for the records of the court below and set aside the judgment and conviction dated 29.09.2022 made in S.C.No.90 of 2020 on the file of the learned Mahalir Court (Fast Track Court), Dindigul, and acquit the Appellant/Accused.

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.ANANTHA MURUGAN S.M., 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 learned Mahalir Court (Fast Track Court), Dindigul, dated 29.09.2022 and enlarge the petitioner on bail, pending disposal of the Appeal.

2.Case of the prosecution in brief:-

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



The defacto complainant, who is the victim girl lodged a complaint stating that she was subjected to continuous rape by the accused person, on the false promise of marriage. Thereafter, she tested positive of pregnancy and the same was informed to the accused persons, at that time, the petitioner abused the defacto complainant and criminally intimidated her. On the basis of the complaint given by the victim girl, the case was registered. After completion of investigation formalities, final report was filed before the concerned Court.

3. Before the trial Court, on the side of the prosecution, 22 witnesses have been examined and 19 documents marked. No material object was exhibited. On the side of the accused, no witness was examined and no document was marked. No material object was exhibited.

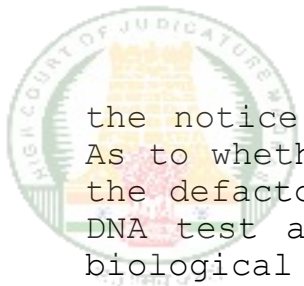
4. At the conclusion of the trial, the Trial Court found the petitioner guilty and convicted the accused for the offence under Section 376(2)(n) and sentenced him to undergo 10 years of Rigorous Imprisonment and to pay a fine of Rs.1,000/- in default to undergo 6 months of Simple Imprisonment, under Section 417 IPC and sentenced him to undergo one year of Rigorous Imprisonment and to pay a fine of Rs.3,000/- in default to undergo 2 months of Simple Imprisonment. Challenging the 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 it was purely consensual of sexual act between the major persons. The victim is aged about 26 years and she had knowledge about the family background of this petitioner that he is already a married person and he got two children. It is further submitted that the charges under Section 506(2) IPC was found to be not proved and the offence under Section 375(2)(n) must also go because there was no criminal intimidation for subjecting the victim girl to sexual intercourse.

7. Per contra, the learned Additional Public Prosecutor appearing for the respondent police submitted that the victim girl was cheated by the petitioner on the false promise to marry her and she was subjected to sexual intercourse repeatedly. The evidence of victim is sufficient enough to record the conviction of guilt. According to him, the offence of such nature is not eligible for suspending the sentence.

8. Perusal of records shows that the petitioner was already married person and he got two children, in spite of that there is an allegation to the effect that by promising of false marriage, she was subjected to repeated rape. When the pregnancy was brought to



the notice of this petitioner, she was criminally intimidated. As to whether there was a consensual sex between the petitioner and the defacto complainant is a matter for consideration in the appeal. DNA test also proved positive stating that this petitioner is the biological father of the above said foetus.

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9. Considering the gravity of the offence and the manner in which, the offence committed by the petitioner, I find that such nature of person is not at all entitled for suspending the sentence and if he is released on bail by suspending sentence, he may again cause trouble to the victim girl in future.

Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-  
07/11/2022

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/11/2022  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

1. THE SESSIONS JUDGE,  
MAHILA COURT (FAST TRACK COURT),  
DINDIGUL.
2. THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
PALANI, DINDIGUL DISTRICT.
3. THE SUPERINTENDENT,  
CENTRAL PRISON, MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL MP(MD) No.13186 of 2022  
IN  
CRL.A.(MD) NO.704 OF 2022  
Date :07/11/2022

tta  
USK/BUC/SAR-II/16.11.2022/3P/5C