



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Friday, the Second day of December Two Thousand and Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL MP(MD) No.13899 of 2022

in

CRL.A.(MD)No.734 of 2022

RAJESH

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
KULASEKARAM POLICE STATION,
KANYAKUMARI DISTRICT.
CR.NO.150/2017.

... 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 in S.C.No.185/2017 on the file of the Court of Sessions Mahila Fast Track Court, Kanyakumari District at Nagercoil dated 22.09.2022 and grant bail to the petitioner pending disposal of the Criminal Appeal.

PRAYER in CRL.A.(MD)No.734 of 2022 :

Pleased to call for the records and set aside the Judgment of conviction imposed on S.C.No.185/2017 on the file of the Court of Sessions, Mahila Fast Track Court, Kanyakumari District at Nagercoil dated 22.09.2022.

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.APPAJI.C.K.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 against the petitioner in S.C.No.185 of 2017, dated 22/09/2022 by the Sessions Mahila Fast Track Court, Kanyakumari District @ Nagercoil and enlarge the petitioner on bail pending disposal of the criminal appeal.



2.The case of the prosecution in brief:-

The de-facto complainant is the victim girl lodged a complaint stating that on 13/05/2017 at about 11.00 am, she was taken and kidnapped by the accused person stating that he is taking her to premarital class that was conducted in the Church. But instead of taking her to the Church, she was taken to Tiruparappu Kannan lodge and sexually assaulted, also abused and criminally intimidated. On the basis of the occurrence, the case was registered and after completing the formalities of the investigation, final report has been filed.

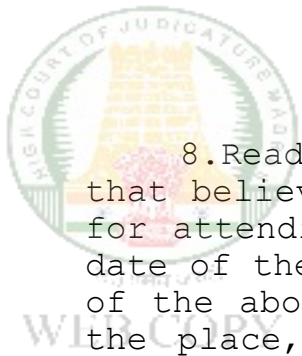
3.To prove the charges, the prosecution examined 10 witnesses and marked 8 documents and one MO was also exhibited. On the side of the accused, no oral and documentary evidence was adduced.

4.At the conclusion of the trial process, the trial court came to the conclusion that the charges that was framed against the accused was proved beyond reasonable doubt and in respect of the offence under section 366 IPC, he was sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo 6 months simple imprisonment and 3 years Rigorous Imprisonment and to pay a fine of Rs.10,000/-, in default to undergo 6 months simple imprisonment for the offence under section 4 of the Tamil Nadu Prohibition of Women Harassment Act. He he was acquitted. He was acquitted from the charges under sections 294(b) and 506(i) IPC.

5.Challenging the above said conviction and sentence, the criminal appeal has been preferred. Pending appeal, this criminal miscellaneous petition has been filed seeking suspension of sentence.

6.The learned counsel appearing for the petitioner would submit that there was no motive between the de-facto complainant and this petitioner and they were only friends and on the particular date, both went to Thiruparappu Water falls. They were spotted by neighbours and only on the spot by neighbours, the above said false complaint has been given, since the de-facto complainant marriage was fixed with one Suresh.

7.Per contra, the learned Additional Public Prosecutor appearing for the respondent would submit that in a drunken mood, this petitioner kidnapped the victim girl to Tiruparappu Kannan lodge and tried to misbehave with her and she was rescued by the neighbours. Only on the basis of the complaint given by the family friend, the case was registered.



8. Reading of the statement of the de-facto complainant shows that believing the words of this petitioner, he went along with him for attending premarital class. She was aged about 31 years on the date of the examination and she would have been 25 years at the time of the above said occurrence. So she was mature enough to identify the place, where she was taken by the accused. This is the main ground, on which, this appeal has been preferred. Whether the conduct on the part of the de-facto complainant in accompanying the petitioner to Triuparappu was conscious or not is the matter of appeal.

9. Considering the period of incarceration of the petitioner and also considering the fact that no bad antecedent is reported against the petitioner and also considering the fact that it will take some time to hear the main appeal for disposal, I am inclined to enlarge the petitioner on bail, by suspending the substantive part of sentence. Accordingly, the suspension of sentence petition is **allowed** and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i) the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of **(*) the Judicial Magistrate No.II, Padmanabhapuram;** and

(ii) on further condition that the petitioner shall appear before the said Court daily at at 10.30 am pending appeal.

sd/-
02/12/2022

**(*) BEING MENTIONED AS PER ORDER OF
THIS COURT DATED 08/12/2022 IN CRL
MP(MD) NO.13899 OF 2022 IN CRL RC(MD)
NO.734 OF 2022**

/ TRUE COPY /

02/12/2022

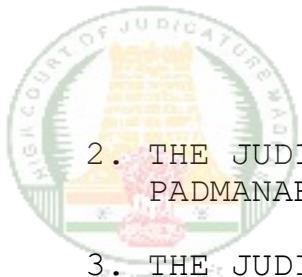
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

TO BE SUBSTITUTED WITH THE ORDER DATED 02/12/2022 ALREADY DESPATCHED

1. THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
KANNIYAKUMARI DISTRICT AT NAGERCOIL.

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



2. THE JUDICIAL MAGISTRATE NO.II,
PADMANABHAPURAM.
3. THE JUDICIAL MAGISTRATE NO.III,
PADMANABHAPURAM.
4. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
KANNIYAKUMARI DISTRICT AT NAGEROCIL.
5. THE INSPECTOR OF POLICE,
KULASEKARAM POLICE STATION,
KANYAKUMARI DISTRICT.
6. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
7. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-14289[I] dated 02/12/2022)

ORDER IN
CRL MP(MD) No.13899 of 2022
in
CRL.A.(MD)No.734 of 2022
Date :02/12/2022

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USK/SSS/SAR-I/02.12.2022/4P/8C
RK/BUC/SAR-1 (21.12.2022) 4P/9C