



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

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

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.14169 of 2022
in
CRL A(MD)No.784 or 2022

RAJENDRAN

...PETITIONER/APPELLANT/SOLE ACCUSED

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
FORT, AWPS,
TRICHY DISTRICT.
(CRIME NO.07/2020)

... RESPONDENT/RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order suspending the execution of the sentence imposed upon the Appellant/Sole Accused in Spl.SC.No.47/2020 by the Learned Sessions Judge, Mahila Court, Tiruchirappalli vide Judgement dated 15.09.2022 until the disposal of the Appeal filed along with and enlare the appellant on bail.

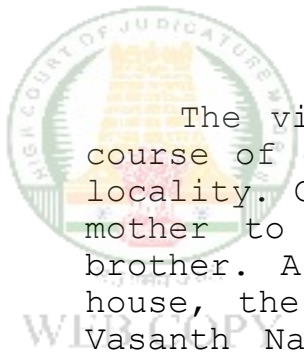
PRAYER IN CRL A(MD)No. 784 OF 2022:

To admit the appeal, call for the records and set aside the conviction and sentence imposed by the Learned Sessions Judge, Mahila court, Thiruchirappalli vide his Judgment dated in Spl.S.C.No. 47 of 2020 dated 15.09.2022 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.KARTHIK KANNA N, Advocate for the petitioner and of MR.SS.MADHAVAN, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This petition is filed by the petitioner to suspend the sentence passed in Spl.S.C.No.47 of 2020, dated 15.09.2022, on the file of the Sessions Judge, Mahila Court, Tiruchirappalli.

2.The case of prosecution in brief:

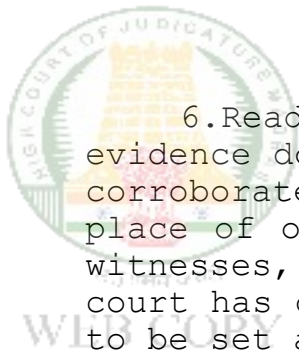


The victim girl was studying in the III standard, during the course of occurrence. The accused person belongs to the very same locality. On 29.03.2020, at about 8.00PM, the victim was sent by her mother to purchase mosquito coil from the shop, along with her brother. After purchasing the same, when she was walking to her house, the accused person kidnapped her to a lonely place, behind Vasanth Nagar Ration Shop. He closed her mouth and removed her undergarments and also touched her private parts. The victim girl raised alarm and on hearing the same the neighbours gathered there. On seeing them, he ran away from that place.

3. Based on the said occurrence, a complaint was given by the victim's father and a case was registered against the accused. After completing the investigation, a final report also filed, before the Family Court, Tiruchirapalli and taken cognizance in Spl.S.C.No.47 of 2020. On the side of prosecution, 9 witnesses have been examined and 12 documents have been marked and no material object has been marked. At the conclusion of trial, the trial Court came to the conclusion that the charges against the accused under Section 366IPC and Section 9(m) r/w 10 of POSCO Act has been proved beyond reasonable doubts and accordingly the petitioner was convicted and sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.2,000/- in default, he has to undergo 6 months simple imprisonment, for the offence under Section 366 IPC and sentenced to undergo rigorous imprisonment for 5 years and to pay a fine of Rs.3,000/- in default, he has to undergo 6 months simple imprisonment, for the offence under Section 9(m) r/w 10 of POSCO Act. Challenging the same, the accused preferred appeal and pending appeal, he filed this petition, for suspension of sentence.

4. According to the learned counsel for the petitioner, the victim girl was aged below 12 years at the time of occurrence. There is no corroborative evidence to show the correct age of the victim and during the lock-down period, the above said victim girl was used to as a messenger between the accused and another girl in the locality. There was no eyewitness to the occurrence, the garments of the victim girl was not seized and sent for chemical examination. No effort has been taken by the Investigation Officer, to collect the fingerprint of the accused person from the undergarment of the victim girl. According to him, this is the only scientific evidence that would have been made available to connect this petitioner to the crime. According to him, this itself shows that the allegations are false and motivated one.

5. Per contra, the learned Government Advocate (Crl.Side) would submit that the evidence of PW1 is sufficient enough, to record the finding of guilt. Absolutely, there is no reason to disbelieve her evidence.



6. Reading of the evidence of the victim girl shows evidence does not suffer from any defect of tutoring and it has been corroborated by circumstantial evidences, who were available in the place of occurrence. On the basis of evidence of PW2 and the other witnesses, who were available soon after the occurrence, the trial court has conviction and sentenced the accused. Whether it is liable to be set aside or not, is a matter for consideration in the appeal.

7. Considering the manner in which, the occurrence has been committed, gravity of the offence, the age of the victim girl, there is no valid ground has been explained by the petitioner to suspend his sentence and also if he released on bail, again he will cause trouble to the victim. Accordingly, this petition deserves to be dismissed.

8. In view of the above, this Criminal Miscellaneous Petition stands dismissed.

sd/-
21/11/2022

/ TRUE COPY /

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

TO

- 1 THE SESSIONS JUDGE,
MAHILA COURT, THIRUCHIRAPPALLI.
- 2 THE INSPECTOR OF POLICE
FORT, AWPS, TRICHY 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.14169 of 2022
in
CRL A(MD) No.784 or 2022
Date :21/11/2022

pnm
PKP/BUC/SAR-3/24.11.2022/3P/5C