



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

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

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.15092 of 2022
in
CRL.A.(MD) .No.482 of 2022

RANJITH

... PETITIONER/APPELLANT

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
NACHIYARKOVIL POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO. 310 OF 2018).

... 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 Spl.S.C.No.77 of 2019 (Old SCC.43 of 2018) dated 13.07.2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur and enlarge the petitioner on bail.

PRAYER in CRL.A.(MD) .No.482 of 2022 :

Pleased to call for the records and set aside the conviction and sentence imposed by the trial court by its judgment passed in Spl.S.C.No.77 of 2019 (Old SCC.43/2018) dated 13.07.2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur 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. ARUN PRASAD.A., Advocate for the petitioner and of MR.B.NAMBI SELVAN, 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 Spl.S.C.No.77 of 2019 (old SCC No.43 of 2018) dated 13.07.2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, and enlarge the Petitioner on bail, pending disposal of the above Criminal Appeal.



2. The case of the prosecution in brief:-

The victim girl was aged about 16 at the time of occurrence. On 15.09.2018 at 1.30 a.m., the accused Ranjith along with some other persons kidnapped her to Sembanarkoil and on the way to the place, he married her against her will and taken her to Sembanarkoil, where he committed sexual intercourse with the victim girl. So on the basis of the above said occurrence, a case was registered in Crime No.310 of 2018 and charges framed against the accused under sections 366 of IPC, Section 9 of Prohibition of Child Marriage Act, 2006 and Section 3(a) r/w.4 of POCSO Act. After completing the formalities of investigation, Final Report has been laid and it was taken cognizance in Spl.S.C.No.77 of 2019 by the trial Court.

3. Before the trial Court, on the side of the prosecution, 16 witnesses were examined as P.W.1 to P.W.16 and 14 documents were marked as Ex.P.1 to Ex.P.14 and 6 material objects were marked as M.O.1 to M.O.6.

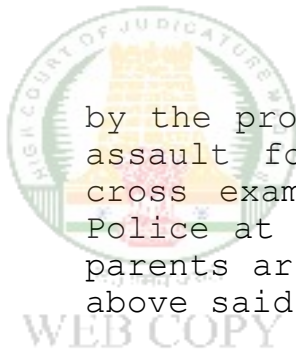
4. At the conclusion of the trial, the trial Court has found that the accused is guilty under Section 366 of IPC and accordingly convicted and sentenced to undergo 5 years of Rigorous Imprisonment with fine of Rs.10,000/- and in default to undergo Rigorous Imprisonment of further period of one year. In respect of other offences, he was acquitted.

5. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal before this Court. Pending appeal, this Miscellaneous Petition has been filed by the petitioner.

6. The learned Counsel for the Petitioner would submit that there was purely love affair between the victim girl and the petitioner. The First Information Report clearly stated that the case of elopement.

7. Per contra, the learned Additional Public Prosecutor would submit that the victim was aged about 16 at the time of occurrence. P.W.1 to P.W.3 have stated about the occurrence that the victim has been kidnapped and married against her will and she was subjected to sexual assault.

8. Now, let us go to the evidence of victim girl on that aspect and she has stated that on the particular date on 14.09.2018, the accused made a phone call to her number and asked her to come out from her house and she was kidnapped to Sembanarkoil and during travel, the accused forcibly tied "Thali". Based on her statement, the accused was arrested by the respondent herein and cross examination is done by both sides. During the cross examination made



by the prosecution, she has stated that she was subjected to sexual assault forcibly and she was also married by kidnaping. But the cross examination made by the accused, she has stated before the Police at that time of filing the First Information Report that her parents arranged marriage with one person in Tharasuram. Only on the above said point, voluntarily she eloped with the accused person.

9. On reading of the cross examination shows that it is a clear case of elopement. Whether the victim girl was kidnapped and sexually assaulted is the matter of consideration in the appeal. During medical examination also, no injury was found in her private parts and the Medical Officer stated that on 15.09.2018, on her own accord, she had sexual intercourse with the accused and he had not stated about the sexual assault. But the only point has to be considered about the case of elopement. The learned Additional Public Prosecutor would submit that she was aged about 16. On considering the above said facts and circumstances of the case, the question of elopement is to be considered in the appeal.

10. On considering the incarceration period of the accused, the relief of suspension of sentence and bail is granted to the petitioner on the following conditions:-

- (i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, 2012, Thanjavur.
- (ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and
- (iii) The petitioner shall appear before the respondent police daily at 10.30 a.m, until further orders.

sd/-
09/12/2022

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12/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,
THANJAVUR.

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



2. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
3. THE INSPECTOR OF POLICE,
NACHIYARKOVIL POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.15092 of 2022
in
CRL.A (MD) No.482 of 2022
Date :09/12/2022

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