



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

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

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PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.15614 of 2022

IN

CRL A(MD) No.837 of 2022

NALLUR PANDIAN

... PETITIONER/APELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION,
VIRUDHUNAGAR DISTRICT.
CR.NO.502/2017

... 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 by the special Court (Protection of Children from Sexual Offences Act Cases)Virudhunagar District at Srivilliputtur in SC.No.13/2018 on 01.11.2022 and release the petitioner on bail pending disposal of the Criminal Appeal.

PRAYER IN CRL A(MD) .837 of 2022:

Pleased to call for records and set aside the conviction and sentence imposed by the Special Court (Protection of Children from Sexual Offences Act Cases), Virudhunagar District at Srivilliputhur in Special S.C.No.13 of 2018 on 01.11.2022 and allow this Criminal Appeal.

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. JOTHI BASU.M, Advocate for the petitioner and of Mr.B.NAMBISELVAN, 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 Special SC No.13 of 2018, dated 01/11/2022 by the Special Court (Protection of Children from Sexual Offences Act Cases), Virudhunagar District at Srivilliputtur and enlarge the petitioner on bail pending disposal of the criminal appeal.



2.The case of the prosecution is that the victim girl was undergoing +2 in Rajapalayam Annapparaja Higher Secondary School. The accused was having close intimacy with the above said victim girl under the guise of false marriage. On 08/06/2017 at about 8.30 am, he took the victim girl to his house and committed penetrative sexual assault. That was also continued for several times. Because of the above said, the victim girl has become pregnant. On 01/08/2017 at about 08.30 pm, when the victim was going to the school, the accused intercepted and kidnapped her to Tenkasi and tied tali at Shivan Koil. Over the above said occurrence, a case was registered on the basis of the complaint given by the de-facto complainant and final report was also filed.

3.During the course of trial, on the side of the accused, 16 witnesses examined and 19 documents were marked, apart from 5 material objects. On the side of the accused, no oral or documentary evidence was adduced.

4.At the conclusion of the trial, the trial court found the accused guilty and accordingly, convicted and sentenced him to undergo one year Rigorous Imprisonment and also pay a fine of Rs.1,000/- with default clause for the offence under section 366 IPC; and also convicted him for the offence under section 5(j)(ii) r/w 6 of the POCSO Act and sentenced to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.1,000/- with default clause.

5.Against which, the criminal appeal has been preferred before this court. Pending appeal seeking suspense of sentence, this petition has been preferred by the petitioner.

6.Heard both sides.

7.The learned counsel appearing for the petitioner would submit that it is a love affair between the victim girl and the petitioner and the first marriage performed to the petitioner ended in failure and he was living separately and only at that time, he developed love affair with victim girl and a child was also aborted, on 16/09/2000. So according to him, it is purely a love affair.

8.The learned Additional Public Prosecutor would submit that the petitioner was already married and living separately from his wife and taking advantage of immaturity of the victim, she was kidnapped and subjected to sexual assault. According to him, the facts and circumstances of the case does not require any indulgence.

9.Now let go to the evidence of the victim girl. She has stated that her date of birth is 08/09/2000 and there was continuous torture made by the petitioner stating that he is in love with her. On 08/06/2017, she went to his house and at that time, she was subjected to penetrative sexual assault. So because of the above



said physical contact, she became pregnant and that was int. to the petitioner, who was working in Karur. At that time, he came to the village, on 29/07/2017 and she was taken to Tenkasi and before the relatives, he told that she was major.

10. Reading of the above said evidence shows that she was given false promise of marriage. The petitioner is a married man and got two children also and he misused the immaturity of the victim girl, who was aged about 16+ at the time of the above said occurrence.

11. Considering the immaturity of the victim girl, the contention on the part of the petitioner that there was love affair between him and the victim girl is not at all acceptable. So this is not a fittest case to suspend the sentence. I find no reason to entertain this petition.

12. In the result, this criminal miscellaneous petition is **dismissed**.

sd/-

22/12/2022

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/01/2023

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

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TO

- 1 THE JUDGE,
SPECIAL COURT
(PROTECTION OF CHILDREN FROM SEXUAL OFFENCES ACT CASES),
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
RAJAPALAYAM NORTH POLICE STATION, VIRUDHUNAGAR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.15614 of 2022
IN
CRL A(MD) No.837 of 2022
Date :22/12/2022

SA/MMS/SAR.4/06.01.2023/3P/5C