



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

Wednesday, the Fourteenth 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.15489 of 2022

AND

CRL A(MD)No.735 of 2022

CHITHAMBARAM PILLAI

... PETITIONER/APPELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
NAGERCOIL ALL WOMEN POLICE STATION,
NAGERCOIL,
KANNIYAKUMARI DISTRICT.
CR.NO.43/2018

... 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 S.C.No.261/2018 on the file of the Court of Sessions Fast Track Mahila Court(Camp Court, Kuzhithurai) Kanniyakumari at Nagercoil dt 07.10.2022 and enlarge the petitioner appellant on bail pending disposal of the above said Criminal Appeal.

PRAYER IN CRL A(MD)No. 735 of 2022:

To Call for the records of the court below and set aside the judgment and conviction dated 07.10.2022 made in S.C.NO. 261 of 2018 on the file of the Court of Sessions Fast Track Mahila Court(Camp Court, Kuzhithurai) Kanniyakumari at Nagercoil 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 SURI.M, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor, on behalf of the Respondents the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in SC No.261 of 2018, dated 07/10/2022 by the Sessions Fast Track Mahila Court, (Camp Court, Kuzhithurai), Kanniyakumari @ Nagercoil and enlarge the petitioner on bail pending disposal of the criminal appeal.



2.The case of the prosecution is that on 17/09/2018, when the victim girl who is a mentally retarded woman was alone in the house, the accused with an intention to sexually assault her trespassed into the house and committed sexual assault by force. On the basis of the information furnished by the mother of the victim girl, the case was registered and after completing the investigation, final report was filed against the accused persons.

3.During the course of trial, on the side of the accused, 14 witnesses examined and 17 documents were marked. 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 5 years Rigorous Imprisonment and also pay a fine of Rs.5,000/-, in default to undergo six months Simple Imprisonment for the offence under section 450 IPC and also convicted them for the offence under section 376 IPC and sentenced him to undergo 7 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default to undergo six months Simple Imprisonment.

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.In this case, the victim died and only the mother of the victim has been examined.

8.The learned counsel appearing for the petitioner would submit that no medical evidence is available corroborating the evidence of PW1 and this petitioner is aged about 65 years at the time of the above said occurrence and the above said mitigating circumstance was taken into account by the trial court, while awarding sentence. According to him, in the absence of any convincing evidence from the victim and the medical evidence has not supported the case of the prosecution, he is entitled for suspension of sentence.

9.But I am unable to agree with this line of argument. Even though the learned counsel appearing for the petitioner was not in a position to inform the court about the motive upon which the false complaint has been lodged. Absolutely, no motive was also suggested. Soon after the occurrence, the victim informed PW1 about the misbehavior and that was taken into account by the trial court. So whether the above said statement of PW1 can be the basis for sentence is the only point to be decided at the time main appeal.

10.Even though the petitioner is aged about 65 years, considering the fact that the victim is a mentally retarded woman, I find no reason to entertain this petition. Accordingly, this miscellaneous petition is **dismissed**. Since records have



been received from the concerned court, the Registry is directed to prepare the typed set of papers and list the matter for hearing the main appeal on 09/01/2023.

sd/-
14/12/2022

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/12/2022

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

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TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, (CAMP COURT)
KUZHITHURAI, KANIYAKUMARI DISTRICT
AT NAGERCOIL.
- 2 THE INSPECTOR OF POLICE
NAGERCOIL ALL WOMEN POLICE STATION,
NAGERCOIL, KANNIYAKUMARI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
PALYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.SURI.M, Advocate (SR-14894[I] dated 15/12/2022)

ORDER
IN
CRL MP(MD) No.15489 of 2022
AND
CRL A(MD)No.735 of 2022
Date :14/12/2022

PKP/MMS/SAR-3/27.12.2022/3P/6C