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*CrI.M.P.No.16798 of 2023
in CrI.A.No.519 of 2023*

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

CrI.M.P.No.16798 of 2023
in
CrI.A.No.519 of 2023

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... Petitioner

Vs.

The State by
Inspector of Police,
Mallur Police Station,
Salem District.
Crime No.129/2012

... Respondent

PRAYER: Criminal Miscellaneous Petition has been filed under Section 389(1) of Cr.P.C to suspend the sentence imposed on the petitioner in S.C.No.45/2014 by the Sessions Judge, Mahalir Neethi Mandram (Mahila Court), Salem By the judgment dated 30.01.2023 and enlarge the petitioner on bail

For Petitioner : Mr.M.Karthik

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking suspension of sentence of imprisonment imposed by the learned Sessions Judge, Mahalir Neethi Mandram (Mahila Court), Salem in S.C.No.45/2014 and enlarge the petitioner on bail, pending disposal of the above appeal.

2. The petitioner who is the accused in S.C.No.45 of 2014 was convicted by the trial court by judgment dated 28.03.2018 for the offence under sections 366 and 376(1) IPC, against which, the present appeal and suspension of sentence.

3. The case projected by the petitioner is that the petitioner along with other accused kidnapped the victim girl under the guise of taking her tour to Madurai and took her to Samayapuram Temple where the petitioner forcibly tied Thali and thereafter, they were living in Karur for some time and at Namakkal. In both the places, the petitioner is said to have forcibly raped



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the victim, PW2. PW2 evidence is that the petitioner as well as the other accused A2 were together. But the trial court had acquitted A2 but convicted the petitioner. The victim girl admits that in the Samayapuram Temple, there were a lot of people and police and despite the same, she has not raised any alarm about her kidnapping and the forcible marriage. Further during her stay at Karur and Nakamakkal, she had not made any complaint to the neighbours or anyone. The victim girl due to the pressure of her sister and her sister's husband, had made a false allegation against the petitioner. The doctor evidence also confirms that there was no external injuries to the victim.

4. Learned Additional Public Prosecutor on the other hand strongly opposed the grant of bail by stating that the petitioner along with the other accused, was charged for the offence under sections 366 and 376(1) IPC. A2 was acquitted and A1 was convicted and sentenced to undergo 7 years R.I. and to pay a fine of Rs.1,000/-, in default to undergo additional 1 year R.I. for the offence under section 366 IPC and to undergo 10 years R.I and to pay a fine of Rs.5,000/-, in default to undergo additional 1 year R.I. for the



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offence under section 376(1) IPC and the said sentences are to run concurrently. In this case, totally PW1 to PW13 witnesses examined, Ex.P1 to Ex.P14 documents marked. The trial court on the evidence of the victim girl PW2 and also finding corroboration of medical evidence through PW7 had found that the victim girl had been kidnapped by the petitioner and that the victim had been forcibly raped by the petitioner. He further submitted that her stay at Karur and Namakkal have been spoken to by the witnesses. The trial court on the evidence and materials produced has rightly convicted the petitioner. He further submitted that the petitioner had committed heinous crime and opposed the grant of bail application.

5. Considered the submissions made by the counsel on either side. From the evidence of PW2, it is seen that the victim had been forcibly kidnapped, by giving false statement as so, going for temple tour along with the relatives of her sister's husband, but was taken to Samayapuram Temple to forcibly marry her and thereafter, she was forcibly made to stay at Karur and Namakkal and whenever, she showed some resistance, she was assaulted by the petitioner. She had also clearly stated about the rape



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committed on her. PW7, the doctor who had examined the victim girl also confirmed the rape committed on the victim medically.

6. In view of the same, this Court is not inclined to grant suspension of sentence. Accordingly, this Miscellaneous Petition is dismissed.

21.11.2023

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To

1.The Inspector of Police,
Mallur Police Station,
Salem District.

2.The Sessions Judge, Mahalir Neethi Mandram (Mahila Court), Salem

3.The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

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