



WEB COPY

CRL MP(MD)



23

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

Friday, the Twenty Fourth day of February Two Thousand and Twenty
Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.2172 of 2023

IN

CRL A(MD) No.96 of 2023

MURUGAVEL

... PETITIONER/APPELLANT

Vs

State Rep.by
THE INSPECTOR OF POLICE
PALANI ALL WOMEN POLICE STATION,
PALANI, DINDIGUL DISTRICT.
(CRIME NO.12/2021).

... 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 the order of conviction against the petitioner/appellant in Spl.SC.No.36/2021 dt.9/12/2022 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dindigul till the disposal of pending appeal.

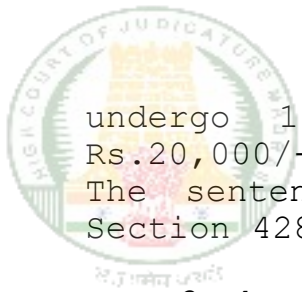
Prayer in CRL A(MD).96/2023 :

To call for the records pertaining to the Judgment dated 09.12.2022 in Spl.S.C.No.36 of 2021 on the file of the Learned Sessions Judge, Fast Track Mahila Court, Dindigul and to set aside the same, by allowing this Criminal Appeal and may be pleased to 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.KARUPPASAMY 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 by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, dated 09.12.2022, in Special S.C.No.36 of 2021 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioner submitted that the petitioner, who is the accused in this case, has been found guilty and convicted by the learned Sessions Judge, for the offence punishable under Section 363 of IPC and sentenced to undergo 5 years rigorous imprisonment and imposed fine of Rs.5,000/- in default to undergo three months simple imprisonment and for the offence punishable under Section 4 of the POCSO Act, 2012 and sentenced to



undergo 10 years rigorous imprisonment and imposed of Rs.20,000/- in default to undergo six months simple imprisonment. The sentences were ordered to run concurrently. Set off under Section 428 Cr.P.C. was also ordered.

3.The case of the prosecution in brief:

The victim has not completed the age of 18 years at the time of occurrence. On 14.06.2021 at about 11.00 in the night, the accused by promising to marry her, hugged her, kissed and also subjected her to sexual assault. She was kidnapped to Ganapathi Nagar. On the basis of the above said occurrence, the case was registered and final report was also filed before the trial court after completing the investigation process. Before the trial Court, on the side of the prosecution 9 witnesses have been examined, 10 documents were marked. On the side of the accused none was examined and no document was marked.

4.At the conclusion of the trial, the trial Court came to the finding that the charges framed against the accused person was proved beyond all reasonable doubts. On that basis, the accused was found guilty and convicted and sentenced above. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner. Pending appeal, this petition has been filed seeking suspension of sentence.

5.During the arguments, it was brought to the notice of this Court that this petitioner was already married and got two children also. But his wife is living separately. After the separation from his wife, by giving false promise of marrying the victim, she was taken to several places.

6.The learned Additional Public Prosecutor submitted that the ground of love affair is not at all available. On going through the records, it is also seen that the petitioner was a married man and having two children. Taking advantage of the immaturity, the victim was taken to several places. She was also subjected to sexual intercourse.

7.Considering the age of the petitioner and his marital status, this Court is of the view that he is not entitled for suspension of sentence.

8.Accordingly, this criminal miscellaneous petition stands **dismissed**.

sd/-

24/02/2023

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/03/2023

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



TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.

2 THE INSPECTOR OF POLICE
PALANI ALL WOMEN POLICE STATION, PALANI,
DINDIGUL DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.KARUPPASAMY, Advocate (SR-3010[I] dated 28/02/2023)

ORDER
IN
CRL MP(MD) No.2172 of 2023
IN
CRL A(MD) No.96 of 2023
Date :24/02/2023

RS//SAR-2(13.03.2023) 3P 6C