



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

Tuesday, the Twenty Eighth day of February Two Thousand and
Twenty Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.3200 of 2023
IN
CRL A(MD) No.841 of 2022

1 P.RAJENDRAN

2 M.ANNADURAI

... PETITIONERS/APPELLANTS/
ACCUSED 1 & 2

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ALANGUDI,
PUDUKOTTAI DISTRICT
(CRIME NO. 2 OF 2021)

... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentences imposed in S.C No. 85 of 2021 on the file of the Sessions Judge, Mahila court at Pudukkottai dated 26.10.2022 and release the petitioners on bail pending disposal of the above appeal.

PRAYER IN CRL.A(MD) No.841 of 2022:

Pleased to call for records and set aside the conviction and sentence on the appellant by the Sessions Judge, Mahila Court, Pudukkottai District in S.C.No.85 of 2021 order dated 26.10.2022 by allowing theis 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.MANIYARASU.K.C., 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 has been filed to suspend the sentence imposed by the learned Sessions Judge, Mahila Court,

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



Pudukottai, dated 26.10.2022, in Special S.C.No.85 of 2022 and enlarge the petitioners on bail, pending disposal of the above said Criminal Appeal.

2.The learned counsel for the petitioners submitted that the petitioners, who are the first and second accused in this case, have been found guilty and convicted by the learned Sessions Judge, for the offence under Section 376(D) and sentenced them to undergo 20 years rigorous imprisonment and to pay a fine of Rs.1,50,000/- in default to undergo rigorous imprisonment for a period of 1 year, for the offence under Section 366 r/w. 109 IPC and sentenced them to undergo 10 years rigorous imprisonment and to pay a fine of Rs.50,000/- in default to undergo rigorous imprisonment for a period of 1 years and for the offence under Section 342 IPC and sentenced them to undergo 1 year rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for three months. The sentences were ordered to run consecutively. Set off under Section 428 Cr.P.C. was ordered.

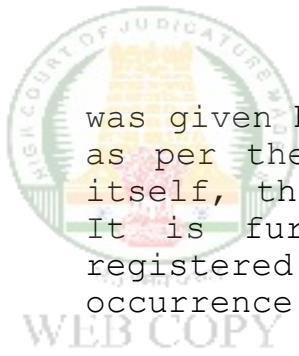
3.The case of the prosecution in brief:

The victim, who is the daughter of the defacto complainant, was aged about 24 years at the time of the occurrence and she was suffering from mental illness for 6 months prior to the date of occurrence. On 03.01.2021, at noon, when the family members were out for duty, the third accused namely the petitioner herein took the above victim girl to her house stating that her relative one Rajangam had called her and pushed her inside her house and locked the door outside. At that time, the accused Nos.1 and 2, who were already inside the house, sexually assaulted the above said victim girl. Though she raised alarm, they committed the offence. Over the above said occurrence, the case was registered in Crime No.2 of 2021 and final report was also filed before the trial Court after completing the investigation process.

4. Before the trial Court, on the side of the prosecution 7 witnesses have been examined, 12 documents were marked. On the side of the accused none was examined and no document was marked.

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

6. After releasing of the third accused by suspending the sentence dated 01.02.2023, this petition has been moved by the accused nos.1 and 2. The learned counsel for the petitioners would submit that even as per the case of the prosecution, the complaint



was given by one Anbu, who was not examined by the prosecut. as per the evidence of P.W.1 to P.W.3, on the date of occurrence itself, the victim was taken to the hospital, so it creates doubt. It is further submitted that the First Information Report was registered by the person who has written the contents of the occurrence. The pregnancy test was also negative.

7. During the course of the trial process, intervenor was appointed to record the evidence of the victim girl. It is also the case of the prosecution that on the basis of the complaint given by the mother of the victim, Inspector of Police, Alangudi Police Station, enquired the same but those particulars are not available. Further submitted that there was previous motive between them. Some two years prior to the alleged occurrence, a complaint was given before the Karambakudi Police Station and the probability of occurrence is also removed.

8. Since the house is having only one door, even as per the case of the prosecution, the mother of the victim girl came to the house, the accused opened the door and ran away. Since it was having only one door, the prosecution story is highly unbelievable. The petitioner cannot be taken advantage of releasing the third accused by suspending the sentence. Considering the age of the third accused and also the limited overt act attributed against her, she was granted the suspension of sentence. So far as these petitioners are concerned, the victim was very clear in her evidence with regard to the overt act of these petitioners. Though there was some mistake committed by the trial Court while recording of the evidence of the victim girl, whether it is enough for rendering the acquittal is the matter for consideration in the appeal. Circumstances may also be taken into account.

9. Considering the fact that the mentally retarded girl has been subjected to sexual assault, this is not the fittest case to enlarge the petitioners on bail.

10. Accordingly, this Criminal Miscellaneous Petition is dismissed.

sd/-
28/02/2023

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/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



- 1 THE SESSIONS JUDGE,
MAHILA COURT, PUDUKKOTTAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ALANGUDI,
PUDUKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP (MD) No.3200 of 2023

IN

CRL A (MD) No.841 of 2022

Date :28/02/2023

SA/BUC/SAR.1/10.03.2023/4P/5C