



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

Wednesday, the Twenty Fifth day of January Two Thousand and Twenty
Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.8757 of 2022
in
CRL A(MD)No. 406 of 2022

RAVI @ RAVICHANDRAN

... PETITIONER/APPELLANT/ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
SILAIMAN CIRCLE,
KARUPPAYURANI POLICE
STATION, MADURAI DISTRICT.
CRIME NO. 192 OF 2010.

... RESPONDENT/RESPONDENT/COMPLAINANT

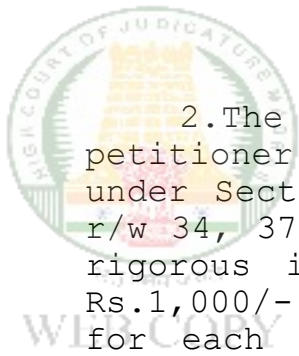
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence of Imprisonment imposed by the Learned Sessions Judge, Mahalir Neethimandram, Madurai in SC.No.347 of 2013 by the Judgment dated.25.5.2022 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Crl.A.

PRAYER IN CRL A(MD)No. 406 of 2022:

To Call for the records in S.C.No. 347 of 2013 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai and set aside the judgment dated 25.05.2022 in S.C.No. 347 of 2013 on the file of the Learned Sessions Judge, Mahalir Neethimandram, Madurai.

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.AJMALKHAN S.A, 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 by the learned Sessions Judge, Mahalir Neethimandram, Madurai, dated 25.05.2022, in S.C.No.347 of 2013 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.



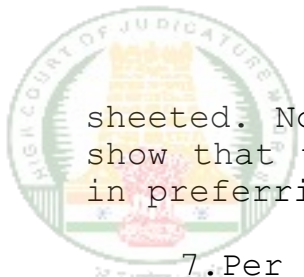
2.The learned counsel for the petitioner submitted the petitioner is A1 in this case. The trial Court found him guilty under Sections 120 B, 366, 376 IPC and A2 under Sections 120B, 366 r/w 34, 376 IPC convicted them and sentenced A1 to undergo 10 years rigorous imprisonment for each offence and also to pay fine of Rs.1,000/- for each offence in default one year simple imprisonment for each offence and sentenced A2 to undergo 10 years rigorous imprisonment for each offence and also to pay fine of Rs.1,000/- for each offence in default one year simple imprisonment for each offence. The sentences were ordered to run concurrently and set off under Section 428 Cr.P.C. was also ordered.

3.The case of the prosecution is that the complainant's daughter aged about 24 years, was a partially mentally challenged person and she was taking training at Special Training Institute at Shenoy Nagar, Madurai, that as usual on 23.03.2010 at about 05.30 p.m., she returned to Suguna Store by bus and while she was proceeding to her house by walking, the first accused, who was residing in the opposite house of the complainant, picked up her in his bicycle near Kani Store, Maruthupandiar Street, stating he will drop her in the house, taken her to a remote area at Jubilee Town near Vandiyur, where the accused had sexually assaulted her again and again, that the victim girl was brought to her by passers by seeing the ID Card, that there was heavy bleeding to the victim girl and she fell ill and that on information given by her, complaint was lodged and on that basis, FIR came to be registered in Crime No.192 of 2010 for the offence under Sections 366 and 376 IPC. The respondent after completing the investigation, has laid the final report against A1 for the offences under Sections 120 B, 366, 376 IPC and the case was taken on file in S.C.No.347 of 2013 on the file of the learned Sessions Judge, Mahalir Neethimandram, Madurai. During the trial process, on the side of the prosecution 14 witnesses were examined and 20 documents were marked. Apart from that 7 material objects have been marked. On the side of the accused person no oral or documentary evidences were adduced.

4.At the conclusion of the trial, the trial Court came to the finding that the charges that were framed against the accused persons were proved beyond the reasonable doubt. On that basis, the accused were found guilty, convicted and sentenced above. Challenging the above said conviction and sentence, appeal has been preferred by the petitioner/A1. Pending appeal, this petition has been filed seeking suspension of sentence.

5.Earlier the application that was filed by the second accused namely Sekar came to be dismissed by this Court in Crl.M.P.(MD). No.7264 of 2022 in Crl.A.(MD).No.400 of 2022 on 22.07.2022. Now this petition has been filed by the first accused.

6.The learned counsel for the petitioner submitted that totally <https://www.mca21.com.in/sdn> persons are named in the FIR. But only two persons were charge



sheeted. No medical evidence was produced before the trial Court to show that the victim was unsound mind. There is a delay of 6 days in preferring the complaint.

7. Per contra, the learned Additional Public Prosecutor would submit that the victim died after the occurrence and PW4 only took the victim girl to the hospital. So considering the circumstances of the case, no suspension of sentence may be granted.

8. So far as this petitioner is concerned the allegation is to the effect that only the first accused took the victim girl to the remote place in a bicycle and where the accused 1 and 2 joined together and raped the victim. The trial Court relied upon the circumstantial evidence to find that only this petitioner took the victim to the remote place and committed rape. An elaborate argument was advanced by the learned counsel, who is appearing for the co-accused in the earlier petition and after going through the entire records and evidence, this Court dismissed that petition.

9. Considering the seriousness of the allegation and as well as the manner in which the above said offence said to have been committed, it is the case of the gruesome allegation of commission of rape. PW3 witnessed to the subsequent event and he has spoken about the fact that the first accused was seized by the public in the place of occurrence. But he escaped from that place. He also identified this petitioner before the trial Court. PW4 also gave evidence to the effect that only this petitioner took the victim girl by his bicycle. So this is a strong circumstance available against this petitioner. Whether the conviction and sentence that was imposed by the trial Court is sustainable or not in the absence of any direct evidence, is the matter for consideration in the appeal. But external simple injuries were found.

10. Considering the above said fact, the contention on the part of the petitioner that there is a delay of 6 days in preferring the complaint and no medical evidence supported the case of prosecution are all can be taken into consideration in the appeal. As I mentioned earlier, the manner in which the above said occurrence taken place, dis-entitles the petitioner from claiming the benefit of suspension of sentence. I find no reason to entertain this petition.

11. This petition deserves to be dismissed. Accordingly,
dismissed.

sd/-
25/01/2023

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/02/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.

2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
SILAIMAN CIRCLE,
KARUPPAYURANI POLICE STATION,
MADURAI DISTRICT.

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

+1 CC to M/s.S.A.AJMALKHAN, Advocate (SR-1407[I] dated 30/01/2023)

ORDER

IN

CRL MP(MD) No.8757 of 2022
in

CRL A(MD)No. 406 of 2022

Date :25/01/2023

PKP/BUC/SAR-2/03.02.2023/4P/6C