



CRL MP(MD) No.13454 of 2023

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

Monday, the Eighteenth day of December Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice P.VADAMALAI

CRL MP(MD) No.13454 of 2023

IN

CRL A(MD) No.862 of 2023

MUTHUMARI

... PETITIONER/PETITIONER

Vs

THE INSPECTOR OF POLICE
JETTI POLICE STATION,
RAMANATHAPURAM DISTRICT.

... RESPONDENT/RESPONDENT

Criminal Miscellaneous 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 in S.C.No.105 of 2019 dated 21.09.2021 passed by the Learned Fast Track Mahila Court,Ramanathapuram and enlarge the petitioner on bail pending disposal of the above appeal.

PRAYER IN CRL.A(MD).862 of 2023:

Pleased to call for the records of the judgment in S.C.No.105 of 2019 dated 21.09.2021 passed by the Learned Fast Track Mahila Court, Ramanathapuram and to set aside the same.

Order : This Criminal Miscellaneous Petition coming up for orders on this day,



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upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KRISHNAVENI.P, Advocate for the petitioner and of Mr.B.NAMBISELVAN, Advocate on behalf of the Respondent, the court made the following order:-

RESERVED ON	29.11.2023
PRONOUNCED ON	18.12.2023

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Fast Track Mahila Court, Ramanathapuram, in S.C.No.105 of 2019 dated 21.09.2021, till the disposal of this Criminal Appeal.

2. The defacto complainant and the accused belonged to same village, namely Cheraankottai. Three months prior to the occurrence, the defacto complainant affected with disorder of hand and legs. After treatment she was in rest without going to work. On 25.10.2018, the husband and son of defacto complainant went to their profession in sea and the neighbours went to Kali temple at Kollankudi and when the defacto complainant was lonely in her house, at about 10.00 a.m the accused trespassed into her house and had sexual intercourse forcibly with her. Thereby the accused charge sheeted for the offence u/s 450 and 376(2)(1) of IPC by the Jetty Police Station.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in Spl.S.C.No.105 of 2019 and the same was pending on the file of the learned Fast Track Mahila Court, Ramanathapuram.



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4. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9, exhibited 10 documents as Ex.P.1 to Ex.P.10. No material object was marked. The defence have adduced neither oral nor documentary evidence.

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 21.09.2021 convicting the petitioner and sentenced him as follows:

S.No.	Offence	Sentence	Fine	In default sentence
1.	450 of IPC	Seven years of Rigorous Imprisonment	Rs.1,000/-	one year simple imprisonment
2.	376(i) of IPC	Seven years of Rigorous Imprisonment	Rs.1,000/-	one year simple imprisonment

6. Aggrieved by the said judgment of conviction and sentence, the petitioner has come forward with the present criminal appeal along with the above application for suspension of sentence.

7. The learned Counsel for the petitioner would submit that there is no proper evidence against the petitioner to prove the offence of rape. He further submitted that

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at the time of occurrence, the petitioner was aged about 67 years and P.W.1 was aged about 80 years. He further submitted that as per the evidence of doctor, no injury was found in her private part. He further submitted that the medical evidence in the case has completely ruled out the prosecution case and also the evidence of P.W.1. He further submitted that this petition has been filed mainly on the ground that the petitioner has lost his vision power in one Eye. He further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that on 25.10.2018, while P.W.1 was sleeping in her house, the petitioner trespassed into the house and raped 80 years old lady, who was affected with Paralysis. He further submitted that P.W.4 and P.W.5 corroborated P.W.1 and also supported the case of the prosecution. He would further submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars.



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The petitioner is in custody from 21.09.2021 for the post more tan two years. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and also considering the age of the petitioner and also the period of incarceration, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Fast track Mahila Judge, Ramanathapuram.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and



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(iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m., until further orders.

sd/-
18/12/2023

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18/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TTA
TO

1 THE FAST TRACK MAHILA JUDGE,
RAMANATHAPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
JETTI POLICE STATION,
RAMANATHAPURAM DISTRICT.

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



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+1 CC to M/s.P.KRISHNAVENI, Advocate (SR-17938[I] dated 18/12/2023)

ORDER IN
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IN
CRL A(MD) No.862 of 2023
Date :18/12/2023

SA/SAR. /18.12.2023/7P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.