



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

Friday, the Seventeenth day of March Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD) No.12159 of 2022
in
CRL A(MD)No. 140 of 2022

DHARMAR

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
CHINNAMANNOOR POLICE STATION,
THENI DISTRICT.
CRIME NO.134/2017.

... 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 and enlarge the petitioner on bail imposed in the judgement dt.28/7/2021 made in Spl.SC.No.24/2017 on the file of the Learned Sessions Judge Fast Track Mahila Court,Theni pending disposal of the above appeal.

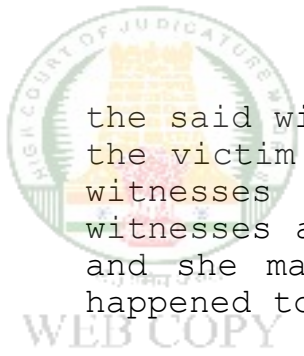
PARYER CRL A(MD)No.140 of 2022:

To call for the records relating to the judgment dated 28.07.2021 made in Special S.C.NO. 24 of 2017 on the file of the Learned Fast Track Mahila Judge, Theni and set aside the conviction and sentence imposed against the appellant/accused and allow above appeal by acquitting the 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.JERIN MATHEW M, Advocate for the petitioner and of MR.R.MEENAKSHI SUNDARAM, 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 passed in Spl.S.C.No.24 of 2017, dated 28.07.2021, on the file of the learned Sessions Judge, Fast Track Mahila Court, Theni, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 02.03.2017 at about 05.15 pm, when the victim child and her elder sister were playing



the said witnesses, but there is no clear evidence regarding the victim child spoke earlier, that none of the witnesses were eye witnesses to the alleged crime and they had only been hearsay witnesses and that the victim child was a three year old girl child and she may not have the capacity to say anything about what had happened to her.

8. The learned counsel appearing for the petitioner would further contend that P.W.4 is a promiscuous woman and her character was also not equally good and that the petitioner had enmity with P.W.4 and P.W.4 had informed the victim child as if the petitioner had sexually assaulted. He would further contend that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

9. The learned Additional Public Prosecutor appearing for the respondent would submit that the victim child's elder sister P.W.3 and P.W.4 and P.W.5 had narrated what had happened really at the occurrence and that the medical evidence corroborates the version 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.

10. Considering the nature and gravity of the offences allegedly proved against the petitioner and also the fact that the judgment was pronounced on 28.07.2021 and also taking note of the age of the victim child, this Court is not inclined to suspend the sentence imposed on the petitioner.

11. In the result, this Criminal Miscellaneous Petition is dismissed.

sd/-

17/03/2023

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/03/2023

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

CSM

TO

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

2 THE INSPECTOR OF POLICE
CHINNAMANNOR POLICE STATION,
THENI DISTRICT.

3 THE SUPERINTENDENT
CENTRAL JAIL PRISON, MADURAI.

<https://www.cenjudis.org>



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

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ORDER

IN

CRL MP(MD) No.12159 of 2022

in

CRL A(MD)No. 140 of 2022

Date :17/03/2023

PKP/BUC/SAR-3/30.03.2023/ **4P/5C**