



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

Friday, the Sixth day of January Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.12475 of 2022
in
CRL A(MD)No.644 of 2022

PRASANTH

... PETITIONER/APELLANT

Vs

THE STATE REP BY,
THE INSPECTOR OF POLICE
VIRUVEEDU POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO. 122 OF 2019

... 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 imposed by the learned District and Sessions Judge, (Mahila Fast Track Court) Dindigul made in Spl S.C No. 73 of 2019 dated 10.09.2022 pending disposal of the above criminal appeal.

PRAYER IN CRL A(MD)No.644 of 2022:

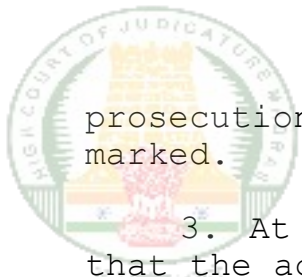
Pleased to call for the records set aside the judgment of conviction and sentence imposed by the learned District and session Judge, (Mahila Fast Track Court) Dindigul made in Spl.S.C.No. 73 of 2019 dated 10.09.2022 and allow the above Criminal Appeal.

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.JAMEEL ARASU B, Advocate for the petitioner and of MR.B.NAMBISELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The case of the prosecution in brief:

The victim was born on 27.08.2004. On 25.08.2019 when she came out of her house, the accused kidnapped the victim girl to Ooty, booked a room in a hotel, was subjected to continuous sexual assault by the accused. Because of the above said sexual assault, she became pregnant.

2. On the basis of the above said occurrence, the complaint was registered and the Final Report was also filed. On the side of the



prosecution, 18 witnesses were examined and 13 documents were marked.

3. At the conclusion of the trial, the trial Court has found that the accused guilty under Section 363 of IPC, and 5(1), 5(i)(ii) r/w 6, of POCSO Act, 2012. Now challenging the above said conviction and sentence, the appeal has been preferred. Pending appeal, this petition has been filed seeking suspension of sentence.

4. The learned counsel for the petitioner would straight away submit that on the date of alleged occurrence, the victim was aged about 17 years and there was love affair between the victim girl and the petitioner. She was about to be get married to one relative, which was not liked by her. Only on the above said circumstances, she voluntarily left her parental home and went along with the petitioner. It is also further submitted that age of the victim girl was not established before the trial Court.

5. Per contra, the learned Additional Public Prosecutor would submit that at that time of the above said occurrence, the victim was aged about only 14 plus. Taking advantage of her immaturity, she was subjected penetrated sexual assault by kidnap. So, according to him, no case has been made out to suspend the sentence.

6. Now, let us straight away go to the evidence of the victim. She has stated that on 25.08.2019, at about 1.00 p.m., she was taken by the petitioner to various places and in Ooty, they were staying in a resort for about 32 days. Later both of them joined in the resort for work and she was subjected to penetrated sexual intercourse. Later they went to Vathalakundu, at that time they were secured by the Police and she was taken to medical examination, it was found that she was pregnant and later it was aborted.

7. It appears that she voluntarily left her parental home and went along with the petitioner to various places. As per the defence version, it was suggested that she was in love with one Ravi, she went along with that Ravi but false complaint has been given against this petitioner. With these facts, argument has been raised that it is purely love affair between this petitioner and the victim girl. How the above said contradictory contention has been taken by the petitioner is not explained. It is also seen that both are in a prohibited relationship, since they are cousins, the victim also became pregnant and later aborted. Whether the age of the victim girl has not been properly established by the prosecution before the trial Court is the matter for consideration in the appeal. The prosecution relied upon the entry made in the Transfer Certificate, it is seen that on the above said alleged occurrence, the victim was aged below 18.

<https://www.mhc.tn.gov.in/> Considering the above said facts and circumstance of this



case, this is not a fittest case to suspend the sentence. [1]
the contentions raised by the petitioner at this stage are the
matter for consideration at the time of the appeal. Since she was
aged about 16 at that time of the alleged occurrence, contention
that there was purely love affair cannot also be taken into account.

9. In the result, this petition is dismissed and accordingly
dismissed.

sd/-
06/01/2023

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/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

INDU

TO

- 1 THE DISTRICT AND SESSION JUDGE
MAHILA FAST TRACK COURT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE
VIRUVEEDU POLICE STATION,
DINDIGUL DISTRICT.
- 3 THE SUPERINTEINDENT
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,

ORDER
IN
CRL MP (MD) No.12475 of 2022
in
CRL A (MD) No.644 of 2022
Date :06/01/2023

PKP/MMS/SAR-4/19.01.2023/3P/5C