



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

Wednesday, the Nineteenth day of April Two Thousand and Twenty
Three

WEB COPY

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL MP(MD)No.14186 of 2022

IN

CRL A(MD)No.286 of 2022

S.SURENDHAR

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARANTHANGI.
CR.NO.1/2019

... 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 imposed by the Honourable Sessions Family Judge Mahila Court Pudukkottai by its judgment dated 15.03.2022 in SC.No.85/2019 and enlarging the petitioner on bail till the disposal of Criminal Appeal.

PRAYER IN CRL A(MD)No. 286 of 2022:

Pleased to call for the records relating to the Sessions Case No. 85 of 2019 on the file of the Mahila Court, Pudukkottai and set aside the Judgment dated 15.03.2022 passed therein and acquit the appellant by allowing this 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.ARULJENIFER.A, Advocate for the petitioner and of M/S.SS.MADHAVAN, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahila Court, Pudukkottai, in S.C.No.85 of 2019, dated 15.03.2022, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that the defacto complainant and the petitioner/sole accused belong to the same village, that the defacto complainant got separated from her husband 10 years back and



she is living with her son and mother, that on 14.01.2019 at about 06.00 p.m., when the defacto complainant was grazing goats near Mellappattu Pillaiyar Temple north Kanmaikarai, the petitioner had taken the defacto complainant, by lifting her and damaging her clothes, committed sexual assault and also unnatural sexual assault and threatened her not to disclose the occurrence to anyone and that on the basis of the complaint lodged, FIR came to be registered in Crime No.1 of 2019 against the petitioner.

3. The respondent police, after completing the investigation, has laid the final report and the case was taken on file in P.R.C.No.11 of 2019 on the file of the District Munsif cum Judicial Magistrate, Thirumayam. Thereafter, the case was committed to the Court of Principal Sessions Pudukkottai and subsequently, the case was made over to the Mahila Court, Pudukkottai in S.C.No.85 of 2019.

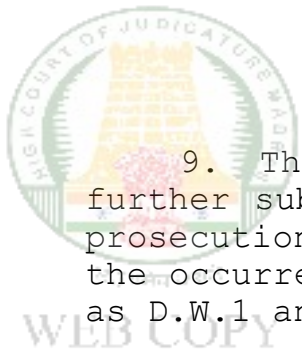
4. During trial, the prosecution has examined 7 witnesses as P.W.1 to P.W.7, exhibited 11 documents as Ex.P.1 to Ex.P.11 and marked 3 material objects as M.O.1 to M.O.3. The defence has examined 3 witnesses as D.W.1 to D.W.3 and adduced no documentary evidence.

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 15.03.2022 convicting the petitioner for the offence under Section 376(1) IPC and sentenced him to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo 1 year Simple Imprisonment. Aggrieved by the said judgment of conviction and sentence, the accused has come forward with the present Criminal Appeal.

6. No doubt, the petitioner's earlier application for similar relief for suspension of sentence was ordered to be dismissed vide order dated 22.09.2022.

7. During the pendency of the above application, taking note of the fact that the petitioner has to write his college examinations, interim bail was granted for a period of one month vide order dated 24.11.2022 and subsequently, the interim bail was extended till 23.03.2023. When the matter was taken up for hearing on 23.03.2023, considering the submission made by the learned Government Advocate (Criminal Side), this Court directed the petitioner to surrender before the Superintendent of Prison, Central Prison, Trichy on 27.03.2023 at about 10.30 a.m. In pursuance of the said direction, the petitioner has surrendered before the Superintendent of Prison and he is in prison till now.

8. The learned counsel appearing for the petitioner would submit that the complaint was allegedly written by the defacto complainant's son, that the petitioner and the defacto complainant's son were friends and that the trial Court has failed to consider the motive attributed for lodging the false complaint.



9. The learned counsel appearing for the petitioner would further submit that there is no medical evidence to corroborate the prosecution case, that since the prosecution has failed to examine the occurrence witness, the said witness was examined by the defence as D.W.1 and that D.W.1 has given evidence disputing the occurrence.

10. As rightly contended by the learned Government Advocate (Criminal Side), though the medical officer has observed that there were no external injuries on the private part of the victim, nail marks were found in the neck portion and hands, that P.W.1 has given categorical evidence that she was sexually assaulted and raped by the petitioner and that the trial Court, considering the evidence available on record, has convicted the petitioner for the offence under Section 376(1) IPC.

11. The learned counsel appearing for the petitioner would submit that the petitioner being a college student may be granted suspension of sentence so as to enable him to complete the semester examinations.

12. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that as per the college authorities, the petitioner is not having sufficient attendance to write the examinations and considering the seriousness of the charge alleged and proved against the petitioner, he is not entitled to get the relief claimed.

13. Considering the above facts and circumstances and the nature and gravity of the charges allegedly proved against the petitioner and also the period of incarceration, this Court is not inclined to suspend the sentence imposed on the petitioner at this point of time.

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

sd/-
19/04/2023

/ TRUE COPY /

/04/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

CSM
TO

1 THE SESSIONS JUDGE,
MAHILA COURT, PUDUKKOTTAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, ARANTHANGI,
PUDUKKOTTAI DISTRICT



3 THE SUPERINTENDENT, CENTRAL PRISON,
TRICHY DISTRICT.

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

WEB COPY

ORDER
IN
CRL MP (MD) No.14186 of 2022
IN
CRL A (MD) No.286 of 2022
Date :19/04/2023

SS/BUC/SAR I/25/04/2023/4P/5C