



Crl.M.P.No.5396 of 2024
in Crl.A.No.331 of 2024

WEB C **M.DHANDAPANI, J.**

This Criminal Miscellaneous Petition has been filed u/s 389(1) of Cr.P.C, seeking to suspend the sentence of imprisonment imposed on the appellant/accused by the order and judgement dated 29.04.2022 in Spl.S.C.No.41 of 2016 by the learned Judge for Magalir Court, Tiruppur and enlarge the appellant/accused on bail, pending disposal of the above Criminal Appeal.

2. Heard learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent police.

3. A perusal of the order of conviction passed by the learned Judge for Mahila Court, Tiruppur dated 29.04.2022 made in Spl.S.C.No.41 of 2016 reveals that, the petitioner/appellant was convicted for the following offence

:-

<i>S. No.</i>	<i>Convicted u/s</i>	<i>Sentenced to</i>
1	5(l) r/w 6 of POCSO Act	undergo rigorous imprisonment for 10 years with a fine of Rs.1,00,000/-, in default, to undergo rigorous imprisonment for a further period of 1 year



S. No.	Convicted u/s	Sentenced to
2	417 of IPC	undergo rigorous imprisonment for 1 year with a fine of Rs.15,000/-, in default, to undergo rigorous imprisonment for a further period of 1 month
3	419 of IPC	undergo rigorous imprisonment for 3 years with a fine of Rs.20,000/-, in default, to undergo rigorous imprisonment for a further period of 3 months
4	420 of IPC	undergo rigorous imprisonment for 7 years with a fine of Rs.20,000/-, in default, to undergo rigorous imprisonment for a further period of 6 months
5	365 of IPC	undergo rigorous imprisonment for 7 years with a fine of Rs.20,000/-, in default, to undergo rigorous imprisonment for a further period of 6 months
6	366 of IPC	undergo rigorous imprisonment for 10 years with a fine of Rs.20,000/-, in default, to undergo rigorous imprisonment for a further period of 1 year
7	506(i) of IPC	undergo rigorous imprisonment for 2 years with a fine of Rs.5,000/-, in default, to undergo rigorous imprisonment for a further period of 3 months

4. On 07.12.2015, the petitioner had aggravated sex with the victim at her house under the guise of performing pooja to cure her Dhosham. On the next day, i.e., on 08.12.2015, the petitioner kidnapped the victim girl and he had aggravated sex with her on several occasions, thereby he committed the alleged offence.



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5. It is seen from the records that the victim girl had clearly spoken about the acts perpetrated by the petitioner against her, which included sexual assault committed by the petitioner and the same is heinous in nature. Further, it is pertinent to note that the victim girl was aged about only 16 years at the time of occurrence and sexual offences against women, more particularly, girl child is increasing. The menace to the society by such unscrupulous elements is more and whenever suspension of sentence is sought for this Court has to be very circumspect in granting suspension. Suspension has to be granted only if a prima facie case is made out, where contradictions, which are crucial in nature are pointed out. In the case on hand, such crucial contradictions have not been pointed out and in such view of the matter, suspending the sentence, as a matter of course, will set a bad precedent in the society. Therefore, this Court is not inclined to accede to the prayer of the petitioner/appellant seeking suspension of sentence.

6. Hence, this Court is not inclined to suspend the sentence of imprisonment against the petitioner in Spl.S.C.No.41 of 2016 dated 29.04.2022 and accordingly, this Criminal Miscellaneous Petition stands dismissed.



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M.DHANDAPANI, J.

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7. Post the main appeal in Crl.A.No.331 of 2024 as per seriatum.

02.08.2024

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To

1.The Judge for Magalir Court,
Tiruppur.

2.The Public Prosecutor,
High Court of Madras.

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