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*CrI.M.P.No.7738 of 2024
in CrI.A.No.582 of 2024*

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2024

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

CrI.M.P.No.7738 of 2024

in

CrI.A.No.582 of 2024

Rajendran

... Petitioner/Revision Petitioner

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Kottakuppam, Villupuram District.

... Respondent/Respondent

Prayer: Criminal Miscellaneous Petition filed under Section 389(1) of Code of Criminal Procedure, to suspend the sentence imposed in S.C.No.128 of 2021 dated 02.04.2024 passed by the learned Sessions Judge, Mahila Court, Villupuram District and release the petitioner on bail pending disposal of above Criminal Appeal.

For Petitioner	Mr.John Sathyan, Senior Counsel : for Mr.Swamisubramanian
For Respondent	: Mr.R.Vinothraja Government Advocate [CrI.Side]



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ORDER

This Criminal Miscellaneous Petition has been filed by the petitioner, seeking to suspend the sentence imposed in S.C.No.128 of 2021 dated 11.09.2024 passed by the learned Sessions Judge, Mahila Court, Villupuram District and release the petitioner on bail pending disposal of above Criminal Appeal.

2. The petitioner/accused in S.C.No.128 of 2021 was convicted by the trial Court by judgment dated 02.04.2024 for offences under Sections 417 and 376 of I.P.C. and the accused is sentenced to undergo one year rigorous imprisonment and to pay a fine of Rs.1000/- in default to undergo one month simple imprisonment for the offence under section 417 of IPC and he was further convicted to undergo ten years rigorous imprisonment and to pay a fine of Rs.10,000/- in default to undergo three months simple imprisonment for the offence under section 376 of IPC. The petitioner was acquitted for the offences under sections 294[b], 506[i] of IPC. Aggrieved against the said conviction, the Criminal Appeal in Crl.A.No.582 of 2024 has been filed along with the instant miscellaneous petition seeking suspension of sentence.



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3. The case of the prosecution is that the the defacto complainant and petitioner are residing in the same area and they had love affair for three years. On 21.03.2020, the accused had physical relation with the the defacto complainant, on the promise of marrying her, at the backyard of his house. The victim, though initially shown resistance, on the promise of the petitioner to marry her, she had given to him. The victim also became pregnant and same was intimated to the petitioner. He refused to marry her and used abusive language against her and threatened her with dire consequences. Hence, a case has been registered against the petitioner in Crime No.6 of 2020 for the offences under sections 417 and 376 of IPC. The investigating Officer, on completion of investigation filed charge sheet against the petitioner.

4. The learned Additional Public Prosecutor submitted that the defacto complaint admitted the relationship, including the physical relationship, with the petitioner and the petitioner on several occasions, on the promise of marrying the defacto complainant, had physical relationship with her and later refused to marry her. The child was also born to them and the DNA report Ex.P.3 confirms that the petitioner is the biological father of the child.



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P.W.2 and P.W.3, who are the parents of the victim girl, have corroborated the version of P.W.11 Doctor, who confirmed the pregnancy. Hence, submitted that the conviction of the petitioner is reasonable and warrants no interference.

5. During the trial, the trial Court examined P.W.1 to P.W.13 and marked Ex.P.1 to Ex.P.10. The trial Court on the considering the evidence of the witnesses and documents had convicted the petitioner. As against which the present appeal has been filed.

6. A perusal of the evidence of witnesses, it is seen that the defacto complainant and the petitioner were in love with each other for quite for some time and they had physical relationship, due to which she got pregnant, is not in dispute. It is also submitted that though the petitioner initially refused to marry the defacto complainant, thereafter, when he accepted to marry the defacto complaint, due to the objection by her parents, the marriage could not be performed. Ex.C.1 to Ex.C.4 have been filed to show that the petitioner had taken steps for marriage. The petitioner had lodged a complaint and C.S.R. was assigned and all called for enquiry and in the police station, the victim girl refused to marry the petitioner. Further, in this case, the doctor



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who had issued DNA report not examined. In view of the above facts and circumstances and petitioner showing inclination to marry the defacto complainant and it was the defacto complainant not agreed for marriage, both the petitioner and victim are major and consciously had physical relationship without any force or compulsion, hence, the conviction of the petitioner needs reconsideration.

7. Accordingly, substantive sentence of Imprisonment imposed on the petitioner is suspended till the disposal of the appeal and he is ordered to be enlarged on bail, on condition that he shall execute a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties, each for a like sum to the satisfaction of the trial Court.

8. Further, the petitioner shall appear before the Trial Court once in three months at 10.30 a.m. on the first working day of the month, until the disposal of the criminal appeal and if he is not able to appear before the Trial Court on that day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence as directed by the Trial Court.



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9. Accordingly, this Criminal Miscellaneous Petition is ordered.

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Index : Yes/No
Internet : Yes/No
Speaking order / Non-speaking order
Neutral citation : Yes/No

vrc

To

1. The Principal Sessions Judge,
Mahila Court, [Fast Track Mahila Court],
Villupuram.
2. The Inspector of Police,
All Women Police Station,
Kottukuppa, Villupuram District.
3. The Superintendent of Prison,
Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court, Madras.



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M. NIRMAL KUMAR, J.

VTC

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