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Crl.M.P.No.13326 of 2024 in Crl.A.No.566 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13326 of 2024
in Crl.A.No.566 of 2024

A.Bala Kumar

... Petitioner/A1

Vs.

1. The State Rep. by
The Inspector of Police,
All Women Police Station,
Villupuram, Villupuram District.
(Cr.No.10/2020)

2. Ms.XXX (victim)

... Respondents

PRAYER: Criminal Miscellaneous Petition filed under Section 389[1] of Cr.P.C., to suspend the sentence imposed in S.C.No.71 of 2021 dated 05.04.2024 on the file of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram, and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.S.Saravana Kumar

For Respondents : Mr.V.J.Priyadarsana (for R1)

Government Advocate (Crl. Side)

assisted by Ms.A.Shahana Fathima

Mr.C.Venkateshan (for R2)

Legal Aid counsel

ORDER

This Criminal Miscellaneous Petition has been filed seeking to



suspend the sentence imposed on the petitioner/A1 by judgment and order dated 05.04.2024 passed in S.C.No.71 of 2021 on the file of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram, and to enlarge the petitioner on bail pending disposal of the appeal.

2. It is the case of the prosecution that the defacto complainant/victim got acquainted with the petitioner/A1 and both of them fell in love; that the petitioner made a false promise of marriage to the victim and coerced the petitioner to have sexual intercourse with her on a few occasions; that thereafter, the petitioner/A1 and other accused i.e., his parents/A2 and A3, refused to get the victim married to the petitioner and threatened the victim of dire consequences.

3. The petitioner, who is arrayed as Accused No.1 in the above Sessions Case, was convicted and sentenced as follows:

Offence under Section	Sentence imposed
417 of IPC	To undergo RI for one year and to pay a fine of Rs.2,000/- in default to undergo SI for one month.
376 of IPC	To undergo RI for ten years and to pay a fine of Rs.10,000/- in default to undergo SI for three months
Sentences were ordered to run concurrently.	



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4. Heard Mr.S.Saravana Kumar, learned counsel for the petitioner; Mr.V.J.Priyadarsana, learned Government Advocate (Crl.Side) appearing for the 1st respondent/State and Mr.C.Venkateshan, learned counsel for the 2nd respondent/victim.

5. The learned counsel appearing for the petitioner would submit that admittedly, the victim and the petitioner loved each other and in fact the victim had stated before the Doctor [PW14] that she had a love affair with the petitioner for a period of 10 years; that she had consensual intercourse with him twice; that therefore submitted that the offence under Section 376 of IPC is not made out; and that the petitioner is in custody from 05.04.2024 and prayed for grant of suspension of sentence to the petitioner.

6. The learned Government Advocate (Crl. Side) *per contra* submitted that the victim was abused by the petitioner and his parents when she requested them to get her married to the petitioner and hence, the petitioner has not made out a case for grant of suspension of sentence.



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7. Mr.C.Venkateshan, learned counsel appearing for the victim/2nd respondent, made submissions opposing the grant of suspension of sentence to the petitioner.

8. The evidence of the victim [PW1] and the evidence of the Doctor [PW14] would suggest that the victim had a love affair with the petitioner for a period of 10 years. The petitioner has raised substantial grounds in the appeal. The question as to whether the consent was obtained on a false promise of marriage has to be examined in the appeal. Therefore, considering the above facts, the period of incarceration from 05.04.2024 and the fact that the appeal is not likely to be taken up in the near future, this Court is inclined to grant the relief of suspension of sentence to the petitioner/A1.

9. Accordingly, this criminal miscellaneous petition stands **allowed** and the sentence imposed on the petitioner/A1 is suspended and the petitioner/A1 is ordered to be released on bail on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/-



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, with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram;

- (ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank pass Book and mobile numbers to ensure their identity; and
- (iii) The petitioner shall appear before the trial Court on the first working day of every month at 10.30 a.m. until the disposal of the appeal and if he is not able to appear before the trial Court on any 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.

05.11.2024

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Issue order copy by .11.2024
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To



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SUNDER MOHAN, J.

ars

- 1.The Sessions Judge,
Magalir Neethi Mandram (Fast Track Mahila Court),
Villupuram.
2. The Inspector of Police,
All Women Police Station,
Villupuram, Villupuram District.
3. The Superintendent of Prisons,
Central Prison, Cuddalore.
- 4.The Public Prosecutor,
Madras High Court.

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