



Crl.M.P.No.13590 of 2024 in Crl.A.No.1223 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.M.P.No.13590 of 2024
in Crl.A.No.1223 of 2024

Ponmudi,
S/o.Govindasami

... Petitioner

Vs.

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

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 389(1) of Code of Criminal Procedure, to order suspension of sentence imposed in Judgment dated 05.09.2024 in S.C.No.111/2024 on the file of Principal District and Sessions Judge, Ranipet, pending disposal of the above Criminal Appeal and enlarge the petitioner on bail.

For Petitioner : Mr.A.Gouthaman

For Respondent : Mr.R.Vinothraja,
Government Advocate (Crl. Side)

ORDER



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This Criminal Miscellaneous Petition has been filed to suspend the sentence of imprisonment imposed in S.C.No.111 of 2024, dated 05.09.2024 on the file of the Principal District and Sessions Court, Ranipet and to enlarge the petitioner on bail pending disposal of the appeal.

2.The case of the prosecution is that the petitioner made a false promise of marriage to the defacto complainant and indulged in sexual intercourse with her on several occasions and that when the defacto complainant requested the petitioner (A1), his parents (A2 & A3) and brother (A4) to get her married to the petitioner, the petitioner and his relatives threatened her of dire consequences. The final report was originally filed against the petitioner, his parents (A2 & A3) and his brother (A4). A4 died during trial and the parents of the petitioner (A2 & A3) were acquitted by the trial Court.

3.The petitioner, who is arrayed as A1 in the above Sessions Case, was convicted and sentenced as follows:

<i>Rank of the Accused</i>	<i>Offence under Section</i>	<i>Conviction and Sentence</i>
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A1	For offence under Section 376(1) of IPC	The petitioner was sentenced to undergo Rigorous Imprisonment for ten years and to pay a fine of Rs.5,000/- in default to undergo Simple Imprisonment for one month.
A1	For offence under Section 417 of IPC	The petitioner was sentenced to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/- in default to undergo Rigorous Imprisonment for three months.
A1	For offence under Section 506(ii) (one count) of IPC	The petitioner was sentenced to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/- in default to undergo Rigorous Imprisonment for three months.

4.Heard Mr.A.Gouthaman, learned counsel for the petitioner and Mr.R.Vinothraja, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5.The learned counsel for the petitioner would submit that it is not a case of single instance of sexual intercourse and that the petitioner never made a false promise of marriage with the defacto complainant; that on 03.12.2012, the defacto complainant married another person and after her husband knew about the relationship, the defacto complainant was sent to her parents home; and that thereafter she had lodged a complaint alleging



that the petitioner had committed the offence of rape and cheating; and that hence the complaint is an afterthought.

6.The learned Government Advocate (Crl. Side) *per contra* appearing for the respondent/State submitted that the defacto complainant pursuant to the relationship had given birth to a child and DNA Report (Ex.P7) revealed that the petitioner is the biological father of the child and that the case against the petitioner has been established beyond reasonable doubt; and that therefore, the petitioner has not made out any ground for suspension of sentence.

7.On perusal of the records, it is seen that the defacto complainant got married on 03.12.2012 to another person at the instance of her parents and that after her in-laws came to know about the relationship with the petitioner, the defacto complainant lodged a complaint on 30.12.2012 alleging rape and cheating. Therefore, this Court *prima facie* finds force in the submissions of the learned counsel for the petitioner that the allegation of false promise and rape appears to be an afterthought. This Court is of the view that the matter requires further deliberation and that has to be done



during the course of final hearing of the criminal appeal.

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8.Considering the submissions of the learned counsel for the petitioner and the fact that the petitioner is in custody from 05.09.2024 and 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.

9.Accordingly, this criminal miscellaneous petition stands allowed and the sentence imposed on the petitioner, is suspended and he 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/- (Rupees ten thousand only), with two sureties, each for a like sum to the satisfaction of the learned Principal District and Sessions Judge, Ranipet.

(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.



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To

- 1.The Principal District and Sessions Judge,
Ranipet.
- 2.The Inspector of Police,
All Women Police Station,
Ranipet,

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Ranipet District.

3.The Central Prison,
Vellore.

4.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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