



Crl.MP.No.18002 of 2023 in Crl.A.No.587 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.02.2024

CORAM :

THE HONOURABLE MR. JUSTICE M.S.RAMESH

AND

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.MP.No.18002 of 2023
in Crl.A.No.587 of 2021

Ranganathan

...Petitioner/Sole accused

Vs.

The State rep by:
Inspector of Police,
All Women Police Station,
Panruti,
Cuddalore District
(Crime No.16/2017)

... Respondent

Prayer :- Criminal Miscellaneous Petition filed under Section 389(1) of Cr.P.C. to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahila Court, Cuddalore in S.C.No.162 of 2018 dated 22.10.2021 and enlarge the petitioner on bail pending disposal of the above Criminal Appeal.

For Petitioner : Mr.K.Rajeev



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For Respondent : Mr.E. Raj Thilak
Additional Public Prosecutor
Assisted by
Mr.C.Aravind

ORDER

(Order of the Court was delivered by **SUNDER MOHAN, J.**)

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner/sole accused by the learned Sessions Judge, Mahila Court, Cuddalore in S.C.No.162 of 2018 dated 22.10.2021 and enlarge him on bail pending disposal of the above Criminal Appeal.

2. The learned Sessions Judge, Mahila Court, Cuddalore in S.C.No.162 of 2018, convicted the petitioner herein and sentenced him as follows:

Accused	Offence	Sentence Imposed
	450 IPC	5 Years rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo simple imprisonment for one year.
	376(2)(1) IPC	To undergo life imprisonment and to pay a fine of Rs.20,000/-, in default, to undergo two years simple imprisonment.

3. Challenging the above conviction and sentence, the petitioner has filed



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the above Criminal Appeal and he seeks suspension of sentence and bail in the present miscellaneous petition.

4. It is the case of the prosecution that the victim is deaf and dumb and she was staying with her uncle/P.W.1; that on 22.10.2017, when her uncle along with the other family members went to attend a final obsequious ceremony of his relative, leaving the victim alone in the house, the petitioner/accused, who is her neighbour, trespassed into the house and committed the offence of rape.

5. Learned counsel for the petitioner submits that the entire prosecution case rests on the evidence of the victim/P.W.2, who could not comprehend the sign language of the interpreter and the trial Judge recorded the same in her deposition. Further, the investigating Officer had admitted that he had not sent the statement of the victim recorded under Section 161 of Cr.P.C. to the Court and therefore, it is doubtful as to whether the victim was examined by the investigating officer. Under such circumstances, the learned counsel for the petitioner submits that the petitioner has a fair chance of success in the appeal. The learned counsel further submitted that the accused is in custody from



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22.10.2021, and the sentence imposed on him may be suspended.

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6. Per contra, the learned Additional Public Prosecutor submits that there is evidence to convict the petitioner for the offence alleged against him and no case has been made out for suspension of sentence and the trial Court has rightly convicted the petitioner for the offence and prayed for dismissal of the petition.

7. We have carefully analysed the rival submissions and perused the records.

8. P.W.2 is admittedly deaf and dumb. She was sought to be examined with the help of interpreter/P.W.3. During her cross examination, the witness had answered in the affirmative for all the questions asked by the learned counsel for the petitioner/accused. Therefore, the trial Judge has recorded that the victim was incapable of understanding the sign language of interpreter and her answers were not based on proper understanding of the questions. Further, we also find that the investigating officer had admitted in the evidence that though he has



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recorded the statement under Section 161 of Criminal Procedure Code, he had not sent it to the Court.

9. Considering the above facts, we are of the view that the petitioner has a fair chance of success in the appeal and also taking note of the fact that the petitioner is in custody from 22.10.2021 and since the present appeal is not likely to be taken up for hearing in the near future, we are inclined to suspend the sentence.

10. In view of the above, we are suspending the sentence on the following conditions:

- (i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees twenty five thousand only), with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Cuddalore.



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(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;

(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.

(M.S.R., J.) (S.M., J.)
06.02.2024

sr

Internet : Yes

Index : Yes / No

Note: Issue Order copy today



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To

1. The Sessions Judge,
Mahila Court, Cuddalore.
2. The Inspector of Police,
Inspector of Police,
All Women Police Station,
Panruti,
Cuddalore District
(Crime No.16/2017)
- 3.The Superintendent,
Central Prison, Cuddalore
- 4.The Public Prosecutor,
High Court, Madras.



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M.S.RAMESH, J.
and
SUNDER MOHAN, J.

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