



Crl.M.P.No.389 of 2024 in Crl.A.No.51 of 2024

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M.NIRMAL KUMAR, J.

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner *vide* judgment, dated 04.07.2023 in Special S.C.No.43 of 2018 by the learned Principal Sessions Judge, Magalir Neethimandram (Fast Track Mahila Court), Tirppur (Trial Court).

2.The conviction and sentence imposed against the petitioners by the trial Court are as follows:

- For offence under Section 5(l) r/w 6 of the Protection of Children from Sexual Offence Act, 2012, the petitioner to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo one year Rigorous Imprisonment.
- For offence under Section 366 of IPC, the petitioner to undergo five years Rigorous Imprisonment and to pay a fine of Rs.1,000/-, in default to undergo six months Rigorous Imprisonment.

3.The case of the prosecution is that the defacto complainant/father of the victim girl (PW2) lodged a complaint (Ex.P2) that on 17.04.2015, at about 08.30 a.m., the victim girl went to college, but not returned back home. On receipt of Ex.P2, the respondent Police registered an FIR in Crime No.250 of 2015 (Ex.P7) under Girl Missing. On enquiry, it was found that



the petitioner herein forcibly kidnapped the victim girl while she was proceeding to college. Prior to the occurrence, suppressing the fact of his marriage, he developed some interest towards the victim girl. Whenever the petitioner was alone at the home, he would call the victim girl to his house and enticed her and had penetrative sexual assault. Thereafter, the petitioner kidnapped the victim girl to Thanjavur where he forcibly tied Thali around neck and took her to his sister house where he had committed penetrative sexual assault on her. From there, the petitioner took her to his brother's place at Kumbakonam, again he had committed penetrative sexual assault. Finding that the Police are in search of him, the petitioner brought the victim girl to Tiruppur, removed Thali from her neck and escaped. On enquiry from the victim girl, the facts were disclosed. During the course of investigation, the petitioner was arrested and confession statement recorded. Both the victim girl and the petitioner produced before the Doctor and they were medically examined. On collection of evidence and materials, the respondent Police filed charge sheet before the trial Court.

4. During trial, on the side of the prosecution, five witnesses examined as PW1 to PW5 and twelve documents marked as Exs.P1 to P12. On the side of the defence, no witness examined and no document marked. On



conclusion of trial, the trial Court convicted the petitioner as stated above.

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5.The learned counsel appearing for the petitioner submitted that the victim girl forced the petitioner for love and it was the victim girl who forced the petitioner to save her since her parents were making arrangements for marriage with elderly person against her wish. If the petitioner failed to save her, she would commit suicide. Having no other choice, the petitioner accompanied the victim girl and she was taken to the petitioner's relatives house and the entire happenings were at the instance of the victim girl and the petitioner not to be blamed. From the evidence of the victim girl, it is clear that there was no kidnap or abduction by the petitioner and it is the victim girl who forced the petitioner to save her life. The petitioner is now accused for saving the victim girl's life. Hence, prays for suspension of sentence.

6.*Per contra*, the learned Government Advocate (Crl. Side) appearing for the respondent submitted that the petitioner developed love relationship with the victim girl who is aged about 17 years. The date of the victim girl is 27.10.1997. On 17.04.2015, the petitioner waylaid the victim girl when she was on the way to her college and forced her to marry him and also have sexual intercourse with her in his house by threatening her that he will do



away her parents. Subsequently, the petitioner promised to marry her and kidnapped her to Thanjavur and married her and had sexual intercourse in his sister's house and on the next day, the petitioner took the victim girl to his brother's house at Kumbakonam and again indulged in sexual intercourse. On the complaint of the father of the victim girl, the respondent registered the FIR (Ex.P7), visited the scene of occurrence, examined the witnesses, recorded their statements, prepared Observation Mahazar (Ex.P3), Rough Sketch (Ex.P10) in presence of witnesses, arrested the petitioner and recorded his confession. Thereafter, the petitioner and the victim girl was produced before the Doctor (PW4) and medically examined. On completion of investigation, charge sheet filed before the trial Court. During trial, five witnesses examined and twelve documents marked. On conclusion of trial, the trial Court convicted the petitioner as stated above.

7.Considering the submissions and on perusal of the materials, it is seen that the victim girl in her evidence clearly stated about the kidnap and sexual intercourse committed by the petitioner. Her evidence is in conformity to the evidence of the other witnesses. Hence, this Court is not inclined to grant suspension of sentence at this stage.



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8.In view of the above, this Criminal Miscellaneous Petition stands  
dismissed.

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