



Crl.M.P.(MD) No.1531 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Thursday, the Twenty Ninth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

Crl.M.P.(MD) No.1531 of 2024

in

Crl.A.(MD) No.735 of 2022

CHITHAMBARAM PILLAI

... PETITIONER/ APPELLANT

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

NAGERCOIL ALL WOMEN POLICE STATION,

NAGERCOIL,

KANNIYAKUMARI DISTRICT.

CRIME NO.43 OF 2018.

... RESPONDENT/RESPONDENT

Criminal Miscellaneous Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the Sentence imposed on the Petitioner in SC.No.261 of 2018 on the file of the Court of Sessions, Fast Track Mahila Court, (Camp Court, Kuzhithurai), Kanyakumari District at Nagercoil, dt.7.10.2022 and enlarge the Petitioner/ Appellant on bail.

Prayer in Crl.A.(MD) No.735 of 2022:

To call for the records of the Court below and set aside the judgment and conviction dated 07.10.2022 made in S.C.No.261 of 2018 on the file of the Court of Sessions Fast Track Mahila Court, (Camp Court, Kuzhithurai) Kanniyakumari at Nagercoil, and acquit the Appellant/ Accused and thus render justice.



Crl.M.P(MD) No.1531 of 2024

Order : This Criminal Miscellaneous petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/s. M.SURI, Advocate for the petitioner and of MR.M.MUTHUMANIKKAM, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil in S.C.No.261 of 2018 dated 07.10.2022 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. According to the prosecution, On 17.09.2018, the petitioner/accused trespassed into the house and sexually assaulted the victim, who is a mentally ill person. Thereafter, based on a complaint given by the mother of the victim (P.W.1), a case has been registered against the petitioner/accused in Crime No.43 of 2018 on the file of the respondent/Inspector of Police, All Women Police Station, Nagercoil, Kanyakumari District for the offences punishable under Sections 450 and 376 of IPC and the same was taken on file in S.C.No.261 of 2018 before the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil. For the offence under Section 450 of IPC, the petitioner was convicted and sentenced to undergo 5 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- with 6 months simple



Crl.M.P(MD) No.1531 of 2024

imprisonment in case of default and the petitioner was convicted and sentenced to undergo 7 years Rigorous Imprisonment and to pay a fine of Rs.5,000/- with six months simple imprisonment in case of default qua Section 376 of IPC and directed the sentences to run concurrently.

3. Learned counsel for the petitioner submitted that the main eyewitness P.W.3. who is said to have been seen the occurrence on the spot turned hostile and there is no medical evidence to prove the case beyond reasonable doubt. Medical evidence does not support the prosecution version. There is no evidence on the side of the prosecution to bring out a nexus between the accused and the crime. Learned counsel further submitted that there are some arguable points involved in the criminal appeal and therefore, he prays for grant of suspension of sentence to the petitioner.

4. Per contra, Mr.M.Muthumanikkam, learned Government Advocate (Crl. Side) would submit that the victim is a mentally disabled person and therefore, the mother of the victim P.W.1 gave the complaint and there are enough materials available on record against the petitioner/accused and hence, opposed for allowing the petition.



Crl.M.P(MD) No.1531 of 2024

WEB COPY

5. Heard the learned counsel on either side and perused the materials available on record.

6. Considering the arguable points involved in the appeal and the age of the petitioner, this Court is of the prima facie view that the sentence imposed on the petitioner is to be suspended pending this appeal.

7. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil in S.C.No.261 of 2018 dated 07.10.2022 alone is suspended subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil;

ii) 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

<https://www.mhc.tn.gov.in/judis>



Crl.M.P(MD) No.1531 of 2024

Book to ensure their identity;

iii) The petitioner shall appear and sign before the learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil, on the first working day of every English calender month at 10.30 a.m., until further orders;

iv) In case, if the petitioner is unable to appear before the Court on the first working day of a month, he shall appear on the next working day; and

v) The petitioner shall furnish his residential address and mobile number to the Trial Court i.e., learned Sessions Judge, Fast Track Mahila Court, Kanyakumari District at Nagercoil.

8. Subject to the above conditions, this Petition is allowed.

sd/-
29/02/2024

/ TRUE COPY /

01/03/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PKN

TO

1. THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
KANYAKUMARI DISTRICT AT NAGERCOIL.

<https://www.mhc.tn.gov.in/judis>



Crl.M.P.(MD) No.1531 of 2024

WEB COPY

2. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

3. THE INSPECTOR OF POLICE,
NAGERCOIL ALL WOMEN POLICE STATION,
NAGERCOIL,
KANNIYAKUMARI DISTRICT.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.SURI, Advocate (SR-2526[I] dated 29/02/2024)

ORDER
IN
Crl.M.P.(MD) No.1531 of 2024
in
Crl.A.(MD) No.735 of 2022
Date :29/02/2024

SSA/SAR /01.03.2024/ 6P/ 6C

Madurai Bench of Madras High Court is issuing certified copies in this format from
17/07/2023