



Crl.MP(MD)No.3535 of 2024 in Crl.A(MD)No.253 of 2024

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G.ILANGOVAN, J

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Fast Track Mahila Court, Virudhunagar @ Srivilliputhur, in Special Sessions Case No.3 of 2022, dated 19/12/2023 and enlarge the petitioner/A1 on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution brief:-

The victim girl was born on 23/02/2006. She was in love with the petitioner/A1 for about one year prior to the occurrence. On 16/10/2021 at about 02.00 pm, the petitioner came to the house of the victim girl, kidnapped her in a two wheeler bearing registration No.TN-67-BW-3018 and went to the relatives house. On 17/10/2021, the petitioner and the victim girl performed marriage on 18/10/2021 at Thiruchendur Temple with the help of the other accused. From 18/10/2021 to 22/11/2021, the victim girl was subjected to penetrative sexual assault. Later, the accused lost interest in the relationship and the victim girl was sent to her parental home. Upon the occurrence, a case in Crime No.21 of 2021 was registered by the respondent police for the offences under sections 366, 376(3) of IPC and section 5(1) and 6 of the POSCO Act r/w sections 9 and 10 of the Child Marriage Act.



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3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.3 of 2022 by the Sessions Judge, Fast Track Mahila Court, Virudhunagar District @ Srivilliputhur.

4.On the side of the prosecution, 10 witnesses were examined and 14 documents were marked. Apart from that, one material object was marked. On the side of the accused, no oral evidence was adduced, but one document was marked.

5.At the conclusion of the trial process, the trial court found the petitioner/A1 guilty of the offences and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months RI for the offence under section 366 IPC; sentenced to undergo each 20 years rigorous imprisonment and to pay a fine of Rs.5,000/- each, in default to undergo 1 year rigorous imprisonment for the offences under section 376(3) IPC section 5(1) r/w 6 of POCSO Act and directed all the sentences to run concurrently.

6.Challenging the conviction and sentence, this appeal is preferred by the appellant/A1. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence.



7.Heard both sides.

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8.The learned counsel appearing for the petitioner/A1 would submit that even as per the case of the prosecution, the victim girl was in love with the petitioner herein and the marriage was performed on 18/10/2021 with the consent of both side family members. According to him, the alleged offences made against the petitioner/A1 are not attracted.

9.Per contra, the Additional Public Prosecutor would submit that the on the date of the occurrence, the age of the victim was 15 + only. So, the love affair as well as the marriage stated by the petitioner itself is illegal.

10.Perusal of the entire records as well as the evidence of the victim girl *prima facie* indicates that they were in love with each other for quite sometime. She went along with the petitioner without any objection. She also stated that on 18/10/2021, the marriage was performed in Thiruchendur Temple. Later, trouble arose between them and she was sent back to her parental home.

11.So in the circumstance of the case, whether the offences alleged are attracted against the petitioner is the only point to be decided in the main appeal.



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12.Considering the above said facts and circumstances of the case and the period of incarceration and also considering the fact that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future, this criminal miscellaneous petition is **allowed** and the substantive sentence of imprisonment alone is suspended and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Sessions Judge, Fast Track Mahila Court, Viridhunagar District @ Srivilliputhur and on further condition that the petitioner shall appear before the said Court on the first working day of every month at 10.30 am until further orders.

27/08/2024

Index : Yes/No
Internet: Yes/No

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To,

- 1.The Sessions Judge,
Fast Track Mahila Court,
Virudhunagar District @ Srivilliputhur.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police,
All Women Police Station,
Aruppukkottai,
Virudhunagar District.
- 4.The Superintendent,
Central Prison,
Madurai.



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G.ILANGOVAN, J.,

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Cr1.MP(MD)No.3535 of 2024 in Cr1.A(MD)No.235 of 2024

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