



CRL MP(MD) No.4931 of 2023

WEB COPY

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

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

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.4931 of 2023

IN

CRL A(MD) No.236 of 2023

MANIKANDAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PALANI,
DINDIGUL DISTRICT.
(CRIME NO.1/2019).

... 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 upon the petitioner by the learned Mahila (Fast Track) Court, Dindigul in Spl.SC.No.37/2019 dt.9/2/2013 pending disposal of the Criminal appeal.

PRAYER in CRL A(MD) No.236 of 2023:

To call for the records relating to the Judgment and conviction passed in Spl.SC.No.37/2019 dated 09.02.2023 on the file of the Learned Mahila Court(Fast Track)Dindigul and set aside the same and acquit the appellant.

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.KARUPPASAMY PANDIYAN.G, Advocate for the petitioner and of Mr.R.SIVAKUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-



CRL MP(MD) No.4931 of 2023

WEB COPY

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Special S.C.No.37 of 2019, dated 09/02/2013 passed by the Sessions Judge, Mahila (Fast Track) Court, Dindigul and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the victim girl was studying 9th standard in Manjanaickenpatty Government Higher Secondary School. On 27/01/2019 at about 03.30 pm, she went for shopping, but did not return. On enquiry, the de-facto complainant the mother of the victim girl came to know that the accused kidnapped her. It is further revealed that the Manikandan's family members are also involved in the kidnapping. She enquired the same with the family members of Manikadnan, but she was abused and insulted. On the basis of the complaint given by the de-facto complainant, a case in Crime No.1 of 2019 was registered by the respondent police for the offences under sections 363, 344, 323 IPC and section 5(1)(j)(ii) of POCSO Act.

3.After completion of investigation, final report was filed before the Judicial Magistrate, Palani and the same was taken on file in Special SC No.37 of 2019 on the file of the Mahila (Fast Tract) Court, Dindigul.



CRL MP(MD) No.4931 of 2023

WEB COPY

4.Before the trial Court, on the side of the prosecution, 21 witnesses were examined and 12 documents were marked. On the side of the accused, 8 witnesses were examined, but no document was marked.

5.At the conclusion of the trial process, the trial court found the petitioner/ A1 guilty of the offence under section 366 IPC and sentenced him to undergo 7 years RI and to pay a fine amount of Rs.5,000/-, in default to undergo 6 months SI; convicted for the offence under section 344 IPC and sentenced to undergo 2 years RI and to pay a fine of Rs.1,000/-, in default to undergo 3 months SI; for the offence under section 6 of the POCSO Act, 2012 sentenced him to undergo 16 years RI and to pay a fine of Rs. 10,000/-, in default to undergo 6 months SI and directed to run all the sentences concurrently.

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

7.Heard both sides.

8.The learned counsel appearing for the petitioner/ A1 would submit that it is purely a love affair between the victim girl and the accused herein. He is referring



CRL MP(MD) No.4931 of 2023

WEB COPY

the evidence of the victim girl before the trial court; The victim girl was examined as PW1. He would further submit that it was established by the prosecution that on the date of elopement the victim girl was above 18 years. According to him, it is a consensual love affair and the victim girl voluntarily went along with the accused.

9.Per contra, the learned Government Advocate (Criminal side) would submit that the at the time of the occurrence, the victim girl was aged about 14 years and the trial court has rightly convicted the petitioner. So, no indulgence need be shown.

10.Now let us go to the evidence of the victim girl. She has stated that she was taken to a lodge by the accused, where he misbehaved with her and thereafter, taken to Palani and from Palani to Tirupur, they were staying in the Manikandan's house for a week. During that time, she was subjected to sexual intercourse and thereafter from Tirupur to Chennai, arranged a house for rent and stayed there for about one month. At that time, the accused after attending his work in the night hours, she was subjected to sexual intercourse. In the meantime, the police complaint was given by the de-facto complainant. So, they were secured.

11.Reading of the victim girl statement, it is shown that it was consensual, according to the petitioner. But the the age of the victim was 14 + at the time of the occurrence. So the question of love affair and consensual relationship may not arise.



CRL MP(MD) No.4931 of 2023

12. For all the reasons stated above, this petitioner is not entitled for suspension of sentence. Accordingly, this criminal miscellaneous petition is **dismissed**.

sd/-
29/08/2024

/ TRUE COPY /

/09/2024

Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER
TO

- 1 THE JUDGE, MAHILA COURT(FAST TRACK)DINDIGUL
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PALANI,
DINDIGUL DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.4931 of 2023
IN
CRL A(MD) No.236 of 2023
Date :29/08/2024

SS/VR/SAR- /05/09/2024/5P/5C

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