



CRL MP(MD) No.7483 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Monday, the Nineteenth day of August Two Thousand and Twenty Four
PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.7483 of 2024
in
CRL A(MD)No.628 of 2024

VETRIVEL

... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE
OTTANCHATTIRAM POLICE STATION
DINDIGUL DISTRICT
CRIME NO.186/2022.

... 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 passed by Mahila Fast Track Court, Dindigul in its judgment dt 15.12.2023 in Special SC.No.170/2023 for offence U/s.363 of IPC and sentence to undergo 3 yrs rigorous imprisonment and fine of Rs.5000/- and in default to undergo 3 months of simple imprisonment pending disposal of this appeal.

PRAYER in CRL A(MD)No.628 of 2024:

To call for the records pertaining to Judgment dated 15.12.2023 in Spl.S.C.No.170 of 2023 on the file of Fast Track Mahila Court, Dindigul and set aside the same by allowing this Criminal Appeal.

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.ARUL JENNIFER.A, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(Crl.side) on behalf of the Respondent, the Court made the following order:-



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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in Spl.S.C.No.170 of 2023, dated 15/12/2023 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 is aged about 17 years. She was fell in love with the accused through Instagram. They loved each other for sometime. When the parents of the victim decided to perform her marriage, she went out of the house and joined with the accused. On 10.04.2022, they went to Kallakurichi and stayed there for sometime. During that period, when the victim was alone in the house, the accused committed penetrative sexual assault upon her for several times. On the basis of the complaint given by the mother of the victim, a case in Crime No.186 of 2022 was registered for the offences under sections 363 of IPC and section 5(l) r/w 6 of POCSO Act, 2012. After completion of investigation, final report was filed before the Sessions Judge, Mahila Fast Track Court, Dindigul and the same was taken on file in Spl.SC No.170 of 2019.

3.Before the trial Court, on the side of the prosecution, 9 witnesses were examined and 20 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.



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4.The learned Trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments on both the sides, has passed the impugned judgment, dated 15/12/2023 convicting the petitioner for the offence under Section 363 of IPC and sentenced him to undergo rigorous imprisonment for a period of 3 years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for a period of 3 months. He was acquitted from the charge under section 5(1) r/w 6 of POCSO Act.

5.Challenging the above said conviction and sentence, the petitioner preferred the present Criminal Appeal along with the above Miscellaneous Petition seeking suspension of sentence.

6.The learned counsel for the petitioner would submit that the petitioner paid the entire fine amount and the sentence of imprisonment passed against the petitioner has been suspended by the trial Court on 15/12/2023 for a period of 60 days and there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prays to allow this petition.



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7.The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

8.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

9.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The Trial Court suspended the sentence imposed against the petitioner on 15/12/2023 for a period of 60 days.

10.The fact remains 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 and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended till the disposal of the appeal 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, Mahila Fast Track Court, Dindigul and



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on further condition that the petitioner shall appear before the said Court on the first

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working day of every week at 10.30 am until further orders.

sd/-

19/08/2024

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Sub-Assistant Registrar

(C.S. I / II / III / IV)

Madurai Bench of Madras High Court,

Madurai - 625 023.

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TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE
OTTANCHATTIRAM POLICE STATION
DINDIGUL DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL MP(MD) No.7483 of 2024

in

CRL A(MD)No.628 of 2024

Date :19/08/2024

SS/JGB/SAR- /23/08/2024/5P/4C

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