



CRL MP(MD) No.5511 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.5511 of 2024

IN

CRL A(MD) No.473 of 2024

GANDHIRAJAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
PALANI ADIVARAM POLICE STATION
DINDIGUL DISTRICT
CR.NO.80/2022

... 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 and release the petitioner on Bail pending disposal of the criminal Appeal before this Honourable Court against the judgment in Special Sessions Case No.154/2023 on the file of the Sessions Court, Fast Track Mahila Court, Dindigul dated 18.12.2023 on such terms.

Prayer in Crl.A(MD).473/2024:

Pleased to call for the records in Special Sessions Case No.154 of 2023 on the file of the Fast Track Mahila Court, Dindigul dated 18.12.2023 and set aside the same and acquit the Appellant.



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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 Mr.VENKATESAN, 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:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed by the Sessions Judge, Fast Track Mahila Court, Dindigul, in Special Sessions Case No.154 of 2023, dated 18/12/2023 and enlarge the petitioner on bail, pending disposal of the above said Criminal Appeal.

2.The case of the prosecution brief:-

The de-facto complainant is the Uncle of the victim. She was aged about 17 years. The victim girl was staying in the de-facto complainant's house for sometime. On 26/04/2022, the de-facto complainant with his family went to temple. At about 12.30 pm, when they returned to the house, at that time, the victim girl was found missing. On the basis of the complaint given by the de-facto complainant, a case in Crime No.80 of 2022 was registered as 'Girl Missing'.

3.On 28/04/2022, when the victim girl along with her father appeared before the respondent police, on enquiry she told that she went to her parental Uncle's home at Vathalakundu. Statement was recorded and she was sent to home. She also



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revealed that she was in love with the accused Gandhi Rajan for sometime. She was taken to the Sivan Malai, performed marriage and on force, she was subjected to frequent penetrative sexual assault.

4.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.154 of 2024 by the Sessions, Fast Track Mahila Court, Dindigul.

5.On the side of the prosecution, 8 witnesses were examined and 15 documents were marked. On the side of the accused, no witness was examined, but one document was marked.

6.At the conclusion of the trial process, the trial court found the accused guilty of the offence and sentenced him to undergo 20 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 6 months Simple Imprisonment for the offence under section 6 of the Protection of Child from Sexual Offences Act, 2012 and sentenced to undergo 3 years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default to undergo 6 months simple imprisonment for the offence under section 363 IPC. He was directed to undergo both sentences concurrently.

7.Challenging the conviction and sentence, this appeal is preferred by the appellant. Pending appeal, this criminal miscellaneous petition was taken out by the petitioner seeking suspension of sentence stating that it is a purely love affair



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between the victim and the petitioner; the victim girl was aged about 17 + years at the time of occurrence; she voluntarily came along with him, performed marriage and there is no forcible penetrative sexual assault.

8.To show the age of the victim, the Investigating Officer filed the Birth Certificate of the victim, wherein the date of birth is mentioned as 04/08/2014. On the date of occurrence namely on 26/04/2022, she was aged about 17 years and 8 months. To show the age of the petitioner, he has produced the Transfer Certificate, wherein the date of birth of the petitioner is mentioned as 09/06/1998. So, it is seen that at the time of the occurrence, he was aged about 24 years and 8 months.

9.Since the victim herself has stated before court that she fell in love with the petitioner, whether the offence now charged conviction and sentence against the petitioner are legal or not is the matter for consideration at the time of appeal.

10.Considering the facts and circumstances of this case and also duration of the custody 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



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sum to the satisfaction of the Sessions Judge, Fast Track Mahila Court, Dindigul and on further condition that the petitioner shall appear before the said Court on the first working day of every week at 10.30 am until further orders.

sd/-
19/08/2024

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19/08/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER
TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, DINDIGUL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

3 THE INSPECTOR OF POLICE
PALANI ADIVARAM POLICE STATION
DINDIGUL DISTRICT

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

ORDER IN
CRL MP(MD) No.5511 of 2024
IN
CRL A(MD) No.473 of 2024
Date :19/08/2024

SA/SAR. /19.08.2024/5P/5C

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