



Crl.MP(MD)No.8219 of 2023 in Crl.A(MD)No.438 of 2023

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**G.ILANGOVAN, J**

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This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in S.C.No.27 of 2017, dated 21/04/2023 passed by the Sessions Judge, FTC, Sivagangai and enlarge him on bail pending disposal of the Criminal Appeal.

**2.The case of the prosecution in brief:-**

The victim girl was married and separated from her husband. The accused herein became acquaintance with the victim girl by suppressing his real name, started relationship with her by stating that his real name is Sarvanan. On 24/12/2015 at about 08.00 pm, under the false promise of marriage kidnapped the victim girl in a two wheeler bearing registration No.TN-59-AX-6376, en-route in the forest area situated between Idaiyamelur Primary Health Centre and Sivagangai, committed repeated rape. Later the accused asked the victim girl to remove her jewels kept by her in a pouch. To rob the jewels, the accused strangled, assaulted her with stones. She sustained grievous injuries, fell unconscious. The accused fled away from that place along with the jewels. On the basis of the occurrence, a case in Crime No.386 of 2015 was registered by the respondent police for the offences under sections 417, 376, 307, 379(NH) of IPC.



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3.After completion of the investigation, final report was filed before the Sessions Judge, Fast Track Mahila Court, Sivagangai and the same was taken on file in SC No.27 of 2017.

4.Before the trial Court, on the side of the prosecution, 19 witnesses were examined and 21 documents were marked. Apart from that, 13 material objects were marked. On the side of the accused, one witness was examined and 11 documents were marked.

4.At the conclusion of the trial process, the trial court found the accused guilty of the offences and sentenced him to undergo 1 year RI and to pay a fine of Rs.2,000/-, in default to undergo 2 months SI for the offence under section 417 IPC; and sentenced to under 10 years RI and to pay a fine of Rs.5,000/- in default to undergo 6 months of SI for the offence under sections 376, 326, 307 and 392 IPC each; and directed to run the sentences concurrently.

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.Heard both sides.

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7.The learned counsel appearing for the petitioner would submit that the prosecution has not disclosed the identity of the accused correctly. He would further submit that in the AR entry, the name of the accused is mentioned as Dharma. In the FIR, it is stated as Anand S/o.Arunachalam. During the course of investigation, the Investigating Officer named the petitioner as Dharma @ Anand @ Saravanan. The Investigating Officer also admitted it during the course of investigation that the name of the accused is differently stated in different situation. He would further submit that the defence has let in evidence to show the real name of the accused as deposed by PW1. According to him, the identity of the accused is not properly established by the prosecution.

8.Per contra, the learned Government Advocate (Criminal side) would submit that on the false promise of marriage, the accused kidnapped the victim girl, in the midway committed rape and stolen away the jewels by causing grievous injuries. Only on the next day of the alleged rape, she became conscious that too located by the neighbours. Thereafter, she brought to the hospital. According to him, the offence of such nature having proved by the prosecution requires no interference.



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9.Perusal of the records shows that it is solely some act of daring robbery by committing repeated penetrative sexual assault and caused grievous injuries. Prima facie materials are available to link the petitioner to the occurrence. So. I find no reason to suspend the sentence.

10.In the result, this miscellaneous petition is **dismissed.**

**02/09/2024**

Index : Yes/No  
Internet: Yes/No

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To,

- 1.The Sessions Judge,  
Fast Track Mahila Court,  
Sivagangai.
- 2.The Inspector of Police,  
Sivagangai Taluk Police Station,  
Sivagangai.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.



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