



CRL MP(MD) No.7046 of 2024

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

Thursday, the Eighteenth day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice K.K. RAMAKRISHNAN

CRL MP(MD) No.7046 of 2024

in

CRL A(MD) No.592 of 2024

VISWANATHAN

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SIVAGANGAI,
SIVAGANGAI DISTRICT,
CRIME NO.4/2015

... 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 of imprisonment imposed by the learned Mahalir Fast Track Court, Sivagangai in SC.No.48/2016 by the judgment dt 25.06.2024 and enlarge the petitioner/appellant on bail pending disposal of the above said Criminal Appeal.

Prayer in CRL A(MD).592/2024 :

To call for the records in S.C.No.48 of 2016 relating to the judgment dated 25.06.2024 passed by the Mahalir Fast Track Court, Sivagangai and to set aside the judgment of the conviction on the appellant/2nd accused.

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.S.PUGALENDHI, Advocate for the petitioner and of MR.B.THANGA ARAVINDH, Government Advocate (Crl.Side) on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-



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This petition has been filed to suspend the sentence imposed vide Judgment made in S.C.No.48 of 2016 dated 25.06.2024 by the learned Mahilar Fast Track Court, Sivagangai and to set aside the judgment of the conviction on the appellant/2nd accused pending disposal of the above Criminal Appeal.

2.The case of the prosecution is that on 19.02.2015 at 10.00 p.m. The petitioner and along with the first accused came to the defacto complainant's house for performing Pooja exorcism to the defacto complainant and her husband. At the time, A1 went to Allur Oorani for performing pooja at about 11.00 p.m., while performing the pooja, the first accused has intercourse with the defacto complainant. Thereafter, on 25.02.2024 the defacto complainant has lodged a complaint before the respondent police.

3.On the basis of the complaint lodged by P.W.1, a case came to be registered in Crime No.4 of 2015 for the offences under Section 417, 376 r/w 109 of IPC.

4. The respondent police, after completing the investigation, has laid a final report for the offences under Section 417, 376 r/w 109 of IPC. The same was taken on file in S.C.No.48 of 2016, on the file of the learned Mahilar Fast Track Court, Sivagangai.

5. During trial, the prosecution has examined 18 witnesses as P.W.1 to P.W.18 and exhibited 11 documents as Ex.P.1 to Ex.P.11 and marked 4 Material Objects as



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M.O.1 to M.O.4. However, neither a witness was examined nor a document was exhibited on the side of the accused.

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6. The learned learned Mahilar Fast Track Court, Sivagangai, after full-fledged trial, has passed the judgment in S.C.No.48 of 2016, dated 25.06.2024 and convicted the petitioners/accused for the offence under Section 417 of IPC and sentenced them to undergo 1 year Rigorous Imprisonment and to pay a fine of Rs.10,000/- each, in default, to undergo 1 month Simple Imprisonment. Challenging the above said conviction and sentence, the petitioner preferred the Criminal Appeal before learned Mahilar Fast Track Court, Sivagangai in S.C.No.48 of 2016. Aggrieved over the above said conviction and sentence, imposed by the Court below, the petitioner preferred the present Criminal Appeal along with the present Miscellaneous Petition seeking for suspension of sentence.

7. The learned counsel for the petitioner would submit that there are several infirmities in the prosecution case. Further, the recovery of properties are not properly proved. Hence, he seeks suspension of sentence.

8.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 this petition.

9.This Court considered the rival submissions made by the learned counsel



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appearing on either side and perused the materials available on record.

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10. The petitioner is said to have committed the offence under Section 417, 376 r/w 109 of IPC. The learned trial Judge has already granted interim suspension. Hence, the petitioner is entitled to the relief of grant of suspension of sentence.

11. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) The petitioner 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 learned Mahalir Fast Track Court, Sivagangai.

(ii) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the trial Court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

sd/-
18/07/2024

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22/07/2024

Sub-Assistant Registrar
Madurai Bench of Madras High Court,
Madurai - 625 023.



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TO

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1 THE JUDGE, MAHALIR FAST TRACK COURT, SIVAGANGAI.

2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
SIVAGANGAI, SIVAGANGAI DISTRICT.

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

ORDER IN
CRL MP(MD) No.7046 of 2024
in
CRL A(MD) No.592 of 2024
Date :18/07/2024

RS//SAR-(22.07.2024) 5P 4C
Madurai Bench of Madras High Court is issuing
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