



CRL MP(MD) No.11750 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.11750 of 2023

IN

CRL A(MD) No.720 of 2023

RAJA

... APPELLANT/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE
AWPS KODAIKKANAL,
DINDIGUL DISTRICT.
CRIME NO.1 OF 2019.

... RESPONDENT/COMPLAINANT

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 against the Petitioner in SC.No.5 of 2022 dt.13.6.2023 passed by the Learned Sessions Judge, Fast Track Mahila Court, Dindigul and enlarge the Petitioner on bail till the disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.720 of 2023:

Pleased to call for the records in Judgement and sentenced dated 13.06.2023 passed in SC.No.5 of 2022 on the learned Sessions Judge, Fast Track Mahila Court, 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 Mr.M.MARAN, Advocate for the petitioner and of Mr.M.SAKTHI KUMAR, Government Advocate(crl.side) on behalf of the Respondent, the court made the



CRL MP(MD) No.11750 of 2023

following order:-

WEB COPY

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed against the petitioner in S.C.No.05 of 2022, dated 13/06/2023 passed by the Sessions Judge, Fast Track Mahila Court, Dindigul and enlarge him on bail pending disposal of the Criminal Appeal.

2.The case of the prosecution is that the de-facto complainant is the sister-in-law of the victim girl. The victim girl is a deaf and dumb. She was living along with her mother in Sambakadu village. After the death of her mother, the victim girl was living alone. On 22/04/2019, the de-facto complainant along with his son Subash went to her house. It was locked. But there was crying from the house. When she opened the window, the accused was found misbehaving with the victim girl. On seeing the de-facto complainant and her son, the accused escaped from that place. 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 451, 376 and 511 IPC.

3.After completion of the investigation, final report was filed before the Sessions Judge, Fast Track Mahila Court, Dindigul, charging the accused for the offences under sections 450, 354(B), 376(2)(1) r/w 511 IPC and the same was taken on file in

SC No.5 of 2022

<https://www.mhc.tn.gov.in/judis>



CRL MP(MD) No.11750 of 2023

WEB COPY

4. Before the trial Court, on the side of the prosecution, 10 witnesses were examined and 16 documents were marked. On the side of the accused, no oral and documentary evidence was adduced.

5. At the conclusion of the trial process, the trial court found the accused guilty of the offence under sections 450, 354(B) and 511 r/w 376(1)(I) of IPC and sentenced him to undergo Rigorous Imprisonment for 7 years and to pay the fine of Rs.1,000/-, in default to undergo 6 months of SI for the offence under section 450 IPC; sentenced to undergo Rigorous Imprisonment of 3 years and to pay a fine of Rs.1,000/-, in default to undergo 6 months of SI for the offence under section 354(B) IPC; and sentenced to undergo Rigorous Imprisonment for 7 years and to pay a fine of Rs.3,000/-, in default to undergo 6 months of SI for the offence under section 511 r/w 376(1)(I) IPC and directed the sentences to run 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 seeking suspension of sentence.

7. Heard both sides.

8. The learned counsel appearing for the petitioner would submit that the date of the occurrence is stated to be 22/04/2019 and the judgment was rendered on 13/06/2022. Ever-since, he is in custody. Apart from that, it is also submitted by him



that there was a land dispute between the father of the accused and the brother of the victim girl. Because of that only, this case was foisted and he was referring to the deposition of the victim girl, wherein she has admitted that there was an issue over the landed property. Because of that issue, both family members were not in talking terms.

9.Per contra, the learned Government Advocate (Criminal side) would submit that the petitioner sexually misbehaved with the victim girl, who is the deaf and dumb and enough material is available and the trial court has rightly convicted the petitioner. So, no indigence need be shown.

10.Reading of the evidence of the victim girl, as mentioned above does indicate that there was dispute between the two families over the landed property and for several years, they were not in talking terms. It is also submitted by her that PW1 the de-facto complainant and her son Subash obtained her thumb impression in a paper.

11.Whether the case was foisted due to enmity is one among the matters for consideration at the time of main appeal.

12.Considering the above said facts and the period of incarceration 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



CRL MP(MD) No.11750 of 2023

WEB COPY

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 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/-
29/08/2024

/ TRUE COPY /

30/08/2024
Sub-Assistant Registrar
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
AWPS KODAIKKANAL,
DINDIGUL DISTRICT.

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

+1 CC to M/s.M.MARAN, Advocate (SR-10556[I] dated 29/08/2024)



WEB COPY



CRL MP(MD) No.11750 of 2023

ORDER
IN
CRL MP(MD) No.11750 of 2023
IN
CRL A(MD) No.720 of 2023
Date :29/08/2024

SA/SAR. /30.08.2024/6P/6C

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