



CRL MP(MD) No.15268 of 2023

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

Monday, the Twenty Sixth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN
and
The Hon`ble Mr.Justice C. KUMARAPPAN

CRL MP(MD) No.15268 of 2023
IN
CRL A(MD) No.965 of 2023

S.ARASU
PRESENTLY CONFINED IN CENTRAL PRISON,
TRICHY. ... PETITIONER/APPELLANT

Vs

THE INSPECTOR OF POLICE
PANAYAPPATTI POLICE STATION,
CR NO.327/2020. ... 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 imposed in Judgement in Spl S.C. No.5/2021 dated 16.03.2023 passed by Learned Mahila Court Pudukkottai and enlarge the petitioner on bail until pending disposal of this Criminal Appeal.

PRAYER in CRL A(MD) No.965 of 2023:

To call for records and set aside the judgment in Spl.S.C.No.05/2021 dated 16.03.2023 passed by the Learned Sessions Judge, Mahila Court, Pudukkottai and allow the Criminal Appeal.



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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 M/S.SHANKAR HARIDASS, Advocate for the petitioner and of Mr.R.MEENAKSHI SUNDARAM, Additional Public Prosecutor on behalf of the Respondent, the Court made the following order:-

The petitioner is the sole accused in Spl.S.C.No.5 of 2021 on the file of the Mahila Court, Pudukkottai, who was found guilty for the offences under Section 363 IPC and Section 5(1) r/w 6(1) of POCSO Amendment Act, 2019. For the offence under Section 363 IPC, the petitioner was convicted and sentenced to undergo rigorous imprisonment for seven years and to pay a fine of Rs.50,000/-, in default to undergo rigorous imprisonment for one year. For the offence under Section 5(1) r/w 6(1) of POCSO Amendment Act, 2019, he was convicted and sentenced to undergo life imprisonment and to pay a fine of Rs.2,00,000/-, in default to undergo rigorous imprisonment for one year. Aggrieved by the conviction and sentence, the present Criminal Appeal is filed.

2. The learned counsel for the petitioner/appellant submitted that there are valid grounds to set aside the order of conviction and sentence. Therefore, pending appeal, the sentence may be suspended.



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3. According to the learned counsel for the petitioner, it was the minor girl, who on her own left the home and joined the petitioner/appellant herein, 20 Kms away from her parents house. He further submitted that the medical report also indicates there was no external injury to indicate that there was forcible intercourse. The learned counsel submitted that at the time of occurrence, the victim girl was around 16 years and the boy was around 18 years, but the Trial Court has not properly appreciated the evidence, which requires re-appreciation in the appeal.

4. Considering the submissions and the grounds of appeal, since the petitioner had already been in prison for more than one year and the appeal is not likely to be taken up for hearing in the near future, this Court is inclined to suspend the sentence imposed on the petitioner.

5. Accordingly, this Criminal Miscellaneous Petition is allowed and the sentence ordered by the Trial Court through the impugned judgment is suspended subject to the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only), with two sureties, each for a like sum to the satisfaction of the Mahila Court, Pudukkottai; and



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(ii) The petitioner shall appear before the Mahila Court, Pudukkottai, once in a month on the first working day of every English Calendar month at 10.30 a.m. until further orders and if he is not able to appear before the said Court on any day, he shall make arrangements to file an application under Section 317 Cr.P.C. and shall appear before the said Court on any other day in lieu of the date of his absence, as directed by the said Court.

sd/-
26/02/2024

/ TRUE COPY /

26/02/2024
Sub-Assistant Registrar
(C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

LM

TO

- 1 THE SESSIONS JUDGE, MAHILA COURT, PUDUKKOTTAI.
- 2 THE INSPECTOR OF POLICE
PANAYAPPATTI POLICE STATION,
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.SHANKAR HARIDOSS, Advocate (SR-2364[I] dated 26/02/2024)



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ORDER
IN
CRL MP(MD) No.15268 of 2023
IN
CRL A(MD) No.965 of 2023
Date :26/02/2024

SS/SAR- /26/02/2024/5P/6C

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