



CRL MP(MD) No.17835 of 2023

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

Tuesday, the Third day of September Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.17835 of 2023

IN

CRL A(MD) No.1113 of 2023

JEEVA

... Petitioner / Appellant

Vs

THE INSPECTOR OF POLICE
KODAIKANAL POLICE STATION,
KODAIKANAL,
DINDIGUL DISTRICT.
(CRIME. NO. 411/2019)

... 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 on petitioner in the above Spl.SC.No.27 of 2023 on the file of the learned Sessions Judge, Fast Track Mahila Court, Dindigul dated 27.07.2023 and release the petitioner on bail pending disposal of the above Criminal appeal.

Prayer in CRL A(MD) No.1113 of 2023:

To set aside the judgment and conviction passed by the learned Sessions Judge, Fast Track Mahila Court, Dindigul, Dindigul District in Spl.S.C.No.27 of 2023 dated 27.07.2023, the acquit the appellant herein.



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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.S.SARVAGAN PRABHU, 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 against the petitioner in Special SC No.27 of 2023, dated 27/07/2023 passed by the Sessions Judge, Fast Track Mahila Court, Dindigul and enlarge him on bail pending disposal of the Criminal Appeal.

2.The victim girl was born on 09/08/2003. She was in love with the petitioner herein. That was condemned by the parents. On 23/12/2019 at about 08.15 am, when the victim girl was going to the school, the accused promised to marry, kidnaped her to Pannaikadu, where she was subjected to forcible sexual intercourse, on 24/12/2019. In the meantime, the complaint was given by the father of the victim girl stating that she is found missing. On that basis, a case in Crime No.411 of 2019 was registered by the respondent police for the offence under section 366(A) IPC. The petitioner and the victim girl were secured.

3.After completion of the investigation, the respondent police filed a final report and the same has been taken cognizance in Special SC No.27 of 2023 for the offence under section 366(A) IPC @ 366(A) IPC and section 3(a) r/w 4 of POCSO Act by the Sessions Judge, Fast Track Mahila Court, Dindigul.



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4. On the side of the prosecution, 12 witnesses were examined and 22 documents were marked. On the side of the accused, 10 witnesses were examined and 3 documents were marked.

5. At the conclusion of the trial process, the trial court found the petitioner guilty of the offences and sentenced him to undergo 3 years rigorous imprisonment and to pay a fine of Rs.2,000/-, in default, to undergo 3 months SI for the offence under section 363 IPC; sentenced to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default to undergo 6 months SI for the offences under section 4 of Protection of Children from Sexual Offences Act, 2012 and directed all 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 it was love affair between the victim girl and the petitioner; the victim girl was aged about 17 + at the time of the occurrence. According to him, it was a consensual elopement.

9. The learned Government Advocate (Criminal side) would submit that the victim girl did not complete 18 years, so there is no question of love affair and



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consensual relationship.

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10.As mentioned above, the victim girl was born on 08/052003. The date of occurrence is stated to be on 23/12/2019. At that time, the victim girl was only 16 +. So, the contention on the part of the petitioner that she was aged about 17 + at the time of the occurrence and it was a consensual elopement is not acceptable.

11.But only the point to be considered is whether the age of the victim girl was known to the petitioner, because even during the course of the trial process, she has stated that she was love with the petitioner for some time and went along with him to various places.

12.In the above said circumstances, as mentioned above, that point can be considered only at the time of hearing the main appeal.

13.Considering the above said facts 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 sum to the satisfaction of the Sessions Judge, Fast Track Mahila Court, Dindigul District and on further



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condition that the petitioner shall appear before the said court once in a week at

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10.30 am until further orders.

sd/-
03/09/2024

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/09/2024
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, Dindigul District.

2.The Inspector of Police,
Kodaikanal Police Station,
Kodaikanal, Dindigul District.

3.The Superintendent,
Central Prison, Madurai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-10800[I] dated 03/09/2024)



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ORDER

IN

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IN

CRL A(MD) No.1113 of 2023

Date :03/09/2024

ED/ SG /SAR- (04/09/2024) 6P / 6C

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