



CRL MP(MD) No.17348 of 2023

WEB COPY

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

Tuesday, the Ninth day of January Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice P. VADAMALAI

CRL MP(MD) No.17348 of 2023

in

CRL A(MD) No.1091 of 2023

VEERAMANI

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KEERANUR,
PUDUKOTTAI DISTRICT.
(CRIME NO.9/2019).

... 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 judgment dated 15.11.2022 made in SC.No.08/2020 on the file of Sessions Judge, Mahila Court, Pudukottai District and enlarge him on bail pending disposal of the criminal appeal.

Prayer in CRL A(MD).1091/2023 :

To call for the records from the lower court in S.C.No.08 of 2020 on the file of the Sessions Judge, Mahila Court, Pudukkottai, Pudukkottai District and set aside the Judgment dated 15.11.2022 by acquitting the appeallant.

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.T.SASIDHARAN TAMILKANI, Advocate for the petitioner and of MR.B.NAMBI SELVAN, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

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



CRL MP(MD) No.17348 of 2023

RESERVED ON	13.12.2023
PRONOUNCED ON	09.01.2024

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, Mahila Court, Pudukottai District, in S.C.No.08 of 2020, dated 15.11.2022, till the disposal of this Criminal Appeal.

2. The case of the prosecution is that on 15.10.2019, at about 12.00 p.m., the defacto complainant went to give lunch to her husband, who had gone grazing goat leaving the victim girl, namely, Veeraselvi, who was mentally retarded in the house alone. The defacto complainant returned the home at 1.30 p.m, at that time, she noticed that the victim girl's dress seen improper and also suspects there was an sexual assault made by some body. The defacto complainant enquired the victim girl about the incident and the victim girl showed the accused house and demonstrated her what happened. Thereafter, a case was registered against the petitioner by the respondent police in Crime No.09 of 2019 for the offences under Sections 376 (2)(1) of Indian Penal Code.

3. The respondent police, after completing the investigation, has filed the final report and the case was taken on file in S.C.No.08 of 2020 on the file of the learned Sessions Judge, Mahila Court, Pudukottai District.

4. During trial, the prosecution has examined 9 witnesses as P.W.1 to P.W.9, exhibited 16 documents as Ex.P.1 to Ex.P.16 and marked 4 material objects as M.O.1 to M.O.4. The defence have adduced neither oral nor documentary evidence.



CRL MP(MD) No.17348 of 2023

WEB COPY

5. The learned trial Judge, upon considering the evidence both oral and documentary and on hearing the arguments of both the sides, has passed the impugned judgment dated 15.11.2022 convicting the petitioner and sentenced him as follows:

S.No.	Offence	Sentence	Fine	In default sentence
1.	376(2)(1) of Indian Penal Code	Ten years of Rigorous Imprisonment	Two lakhs	One year rigorous imprisonment

6. Aggrieved by the said judgment of conviction and sentence, the petitioner has come forward with the present criminal appeal along with the above application for suspension of sentence.

7. The learned Counsel for the petitioner would submit that there is no evidence against the petitioner and there is delay in lodging complaint and the petitioner has paid the fine amount of Rs.2,00,000/- on 11.12.2023 and he is in custody from 15.11.2022. As per the Accident Register an unknown person committed rape but P.W.1 stated as known person. He further submitted that there was no medial evidence and no external injuries in her private part. He further submitted that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses.

8. The learned Additional Public Prosecutor appearing for the respondent would submit that in the absence of the parents, the petitioner misbehaved with the mentally retarded

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



CRL MP(MD) No.17348 of 2023

person, who was aged about 19 years at the time of occurrence. He further would submit that there are enough materials available on record against the petitioner and hence, he strongly to grant suspension of sentence.

9. This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

10. The learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains 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 and also considering the period of incarceration, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

11. Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal with the following directions:-

(i) The petitioner is directed to be enlarged on bail on condition that 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 Sessions Judge, Mahila Court, Pudukottai District.

(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



CRL MP(MD) No.17348 of 2023

WEB COPY

Aadhar card or Bank Pass Book to ensure their identity; and

(iii) The petitioner shall appear before the trial Court once in a week
i.e., on the first working day of every week at 10.30 a.m., until further
orders.

sd/-
09/01/2024

/ TRUE COPY /

09/01/2024

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

tta

TO

1 THE SESSIONS JUDGE,
MAHILA COURT,
PUDUKOTTAI DISTRICT.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KEERANUR,
PUDUKOTTAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.

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

+1 CC to M/s.S.T.SASIDHARAN TAMILKANI, Advocate (SR-373[I] dated
09/01/2024)

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



WEB COPY



CRL MP(MD) No.17348 of 2023

ORDER

IN

CRL MP(MD) No.17348 of 2023

in

CRL A(MD) No.1091 of 2023

Date :09/01/2024

RS//SAR-(09.01.2024) 6P 6C

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