



CRL MP(MD) No.196 of 2024

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

Friday, the Sixteenth day of February Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice VIVEK KUMAR SINGH

CRL MP(MD) No.196 of 2024

in

CRL A(MD) No.27 of 2024

RENGAN @ RENGASAMY

... PETITIONER/ APPELLANT

Vs

THE INSPECTOR OF POLICE
ANNAVASAL POLICE STATION,
PUDUKOTTAI DISTRICT,
CRIME NO.58/2009

... 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 in judgment dated 22.11.2023 passed in SC No.20/2018 on the file of the learned Sessions Judge, Mahila Court, Pudukottai and enlarge him on bail pending disposal of the instant Criminal Appeal.

Prayer in CRL A(MD) No.27 of 2024 :

To call for the records and set aside the Judgment dated 22.11.2023 made in S.C.No.20 of 2018 passed by the learned Sessions Judge, Mahila Court, Pudukkottai and allow the above Criminal Appeal.

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.B.JAMEEL ARASU, Advocate for the petitioner and of MR.R.SIVAKUMAR, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-



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The petitioner has filed this Criminal Miscellaneous Petition praying to suspend the sentence passed against him by the learned Sessions Judge, Mahila Court, Pudukottai, in S.C.No.20 of 2018 dated 22.11.2023 and to enlarge him on bail, pending disposal of the Criminal Appeal.

2. The case of the prosecution in brief is that the petitioner/accused herein is the relative and uncle by relationship to the defacto complainant/victim and they have fallen in love since two years prior to the complaint and on the pretext of marriage, the petitioner/accused has forcibly made physical relationship with her, as a result of which, she became pregnant and delivered a female child.

3. The main allegation of the prosecution is that the petitioner/accused has received a sum of Rs.18,000/-, ½ sovereign gold ring, 1 ½ sovereign gold jewels and escaped from the village for 8 months and only on 17.04.2019 the accused returned back to his village. When the prosecutrix/P.W.1 informed the accused about her pregnancy and requested him to marry her, the petitioner refused to marry her and abused her with filthy language and caused life threat by showing Aruval. Thereafter, based on a complaint given by the prosecutrix/P.W.1, a case has been registered against the petitioner in Crime No.58 of 2009, on the file of the respondent/Inspector of Police, Annavasal Police Station, Pudukottai District, for the offences punishable under Sections 376(i), 417, 294(b) and 506(ii) of IPC and the same



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was taken on file in P.R.C.No.41 of 2017 and as the case was exclusively triable by Court of Sessions, the case was committed to the learned Principal Sessions Court, Pudukottai and the same was taken on file in S.C.No.20 of 2018. Thereafter, the case was made over to the learned Sessions Judge, Mahila Court, Pudukottai for conducting trial. After conducting full-fledged trial, the petitioner was convicted and sentenced to undergo seven years Rigorous Imprisonment and to pay a fine of Rs.5,000/- with six months Simple Imprisonment in case of default for the offence punishable under Section 376(i) of IPC. In respect of Section 417 of IPC, the petitioner was convicted and sentenced to undergo one year Rigorous Imprisonment. The period of sentence was ordered to run concurrently. Challenging the above said conviction and sentence, the petitioner has preferred the present Miscellaneous Petition seeking suspension of sentence.

4. The learned counsel for the petitioner submits that the applicant is innocent and has been falsely implicated in the case. He further submitted that the trial Court failed to consider the fact that the difference of age between the petitioner and complainant is of 10 years. The petitioner belongs to a reputed family and got engaged with another girl. Even if it is assumed that the defacto complainant had physical relationship with the petitioner, who was about ten years younger than her, she would have lodged a complaint immediately, however, she gave the complaint



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after a lapse of one year. Furthermore, there was no evidence produced by the prosecution to prove the fact that the petitioner has promised to marry the defacto complainant. Hence, the learned counsel prays for suspension of sentence of the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that the petitioner has forcibly made physical relationship with the prosecutrix/P.W.1 and that she categorically deposed that the accused had physical relationship with her on the pretext of marriage and due to which, she became pregnant. He further submitted that the offence committed by the petitioner is corroborated with the evidence of Doctor, who examined the P.W.1 and issued Ex.P2. It is also a proven fact that he is the biological father of the child and hence, he strongly opposed to grant suspension of sentence.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. side) appearing for the State and perused the materials available on record.

7. This Court finds force in the submission of the learned counsel for the petitioner and 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 Court is of the considered view that the petitioner herein is entitled to the relief of



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grant of suspension of sentence.

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8. Accordingly, this Criminal Miscellaneous Petition is allowed. The sentence imposed by the learned Sessions Judge, Mahila Court, Pudukottai, in S.C.No.20 of 2018 dated 22.11.2023 alone is suspended, subject to the following stringent conditions:-

i) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Keeranur, Pudukottai;

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;

iii) The petitioner shall appear before the concerned Court daily at 10.30 a.m. and 5.30 p.m., till the disposal of the appeal.

iv) The petitioner shall furnish his residential address and mobile number to the Trial Court ie., learned District Munsif cum Judicial Magistrate, Keeranur, Pudukottai;

v) On breach of any of the aforesaid conditions, the learned Sessions Judge, Mahila Court, Pudukottai, is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the appellant



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released on bail by the learned Special Judge/Trial Court himself as laid down by the

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Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]; and

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A of IPC.

9. Subject to the above conditions, this Criminal Miscellaneous Petition is allowed.

sd/-
16/02/2024

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22/02/2024

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

PKN

TO

1 THE SESSIONS JUDGE, MAHILA COURT, PUDUKKOTTAI.

2 THE DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE, KEERANUR,
PUDUKOTTAI.

3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, PUDUKOTTAI DISTRICT.

4 THE INSPECTOR OF POLICE, ANNAVASAL POLICE STATION,
PUDUKOTTAI DISTRICT.

5 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

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



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+1 CC to M/s.B.JAMEEL ARASU, Advocate (SR-1992[I] dated 16/02/2024)

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ORDER

IN

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in

CRL A(MD) No.27 of 2024

Date :16/02/2024

RS//SAR-(22.02.2024) 7P 8C

Madurai Bench of Madras High Court is issuing
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