



CrI.MP.(MD).No.14255 & 14257 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2025

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

CrI.MP.(MD).No.14255 & 14257 of 2024

and

CrI.A(MD)No.1142 of 2024

Rajasekar

... Petitioner/Sole Accused

Vs.

The State of Tamil Nadu represented by its,
The Inspector of Police,
Lalgudi All Women Police Station,
Trichy District.
(In Crime No.31 of 2021)

... Respondent/Complainant

PRAYER in CrI.MP.(MD).No.14255 of 2024 : Petition filed under Section 430 of BNSS, to suspend the sentence of imprisonment imposed against the petitioner/accused by the judgment SC.No.213 of 2022 dated 27.11.2024 on the file of the learned Sessions Judge Mahila Court, Trichy, pending disposal of this Criminal Appeal.

PRAYER in CrI.MP.(MD).No.14257 of 2024 : Petition filed under Section 430 of BNSS, to exempt the petitioner from surrendering before the trial Court in connection with the sentence imposed upon the petitioner/accused in SC.No.213 of 2022, on the file of the learned Sessions Judge Mahila Court, Trichy, dated 27.11.2024.

For Petitioner : Mr.P.Ganapathi Subramanian

For Respondent : Mr.R.Meenakshi Sundaram,
Additional Public Prosecutor



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ORDER

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These Criminal Miscellaneous Petitions have been filed to suspend the sentence and fine passed by the learned Sessions Judge, Mahila Court, Trichy, in S.C.No.213 of 2022 dated 27.11.2024, to enlarge the petitioner on bail till the disposal of the Criminal Appeal and to exempt the petitioner from surrendering before the trial Court.

2. The case of the prosecution is that the petitioner is the sole accused in S.C.No.213 of 2022 and facing charges under Section 417 of IPC. As per the allegation, the petitioner had committed the penetrative sexual assault upon the victim by giving a false promise that he would marry her. Thereafter, he refused to marry her. Hence, she made an attempt to commit suicide by consuming poison on 31.08.2021. Thereby, she was taken to the hospital. Hence, the complaint.

3. On receipt of the complaint, the respondent police registered a case in Crime No.31 of 2021 for the offences under Sections 417, 420 and 376(1) of IPC.

4. The respondent police, after completing the investigation, has laid a final report before the learned Judicial Magistrate, Lalgudi, Trichy and the same was taken on file in PRC.No.18 of 2018 for the offences under Sections 417, 420 and 376(1) of IPC. Since the case under Sections 417, 420 and 376(1) of IPC is exclusively triable by the Sessions Court, the learned Magistrate committed the case to the Principal District



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and Sessions Judge, Tiruchirappalli and the same was taken on file in S.C.No.213 of 2022.

5. During the trial, the prosecution has examined 10 witnesses as P.W.1 to P.W.10 and exhibited 11 documents as Ex.P.1 to Ex.P.11 were marked. On the side of the defence, no one was examined and no document was marked.

6. The learned Special Sessions Judge, upon considering the evidences adduced and on hearing the arguments on both the sides, acquitted the petitioner from the offence under Section 376(1) of IPC and convicted the him for the offence under Section 417, and sentenced him to undergo 1 year rigorous Imprisonment and to pay a fine of Rs.10,000/- in default, to undergo 3 months Simple Imprisonment for the offence under Section 417 of IPC.

7. Thereafter, the trial Court has granted interim suspension of sentence to the petitioner till 26.12.2024.

8. Challenging the above said conviction and sentence, the petitioner has preferred the present Criminal Appeal along with the above Miscellaneous Petitions seeking suspension of sentence and exempt the petitioner from surrendering before the trial Court.



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9. The learned Counsel for the petitioner submitted that there was a delay of 3 days in lodging the FIR. Apart from that, the victim in his complaint stated that she was taken to 'Giri Residency'. But, in her evidence, deposed that she was taken to a house of the accused's friend. Further, as per the FIR, the accused contacted the victim on 31.08.2021 through phone and informed that he was not willing to marry her. But, in her evidence, she stated that she met the accused on 31.08.2021. The above said vital contradictions is fatal to the prosecution. Further, a number of contradictions between the evidences regarding the alleged occurrence. In the said circumstance, the offence is not made out against the petitioner. Hence, he seeks to grant of suspension of sentence to the petitioner.

10. The learned Additional Public Prosecutor appearing for the respondent would submit that there are enough materials available on record against the petitioner and hence, he strongly opposed to grant suspension of sentence.

11. This Court has carefully considered the rival submissions by either side and also perused the materials available on record.



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12. Considering the facts and circumstances of the case and also considering the fact that the trial Judge has already granted interim suspension of sentence to the petitioner, and there is no antecedent against the petitioner and certain infirmities, inconsistencies and contradictions in material particulars brought to the knowledge of this Court, this Court *prima facie* feels 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. Hence, this Court is inclined to grant of suspension of sentence.

13. Accordingly, the relief of suspension of sentence is granted to the petitioner on the following conditions:-

(i) 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, Trichy.

(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; and



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(iii) The petitioner shall appear before the concerned Court once in a month i.e., on first working day of every English calendar month at 10.30 a.m., till the disposal of the appeal.

14. The petitioner is exempted from surrendering before the trial Court.

sd/-
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/01/2025
Sub-Assistant Registrar (C.S. I / II / III / IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

DSS

TO

- 1 THE SESSIONS JUDGE,
MAHILA COURT, TIRUCHIRAPPALLI.
- 2 THE INSPECTOR OF POLICE,
LALGUDI ALL WOMEN POLICE STATION,
TRICHY DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



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ORDER
IN
Crl.MP.(MD).No.14255 & 14257 of 2024
and
Crl.A(MD)No.1142 of 2024
Date :03/01/2025

SS/VR/SAR- /17/02/2025/ 7P/4C

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