



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

Friday, the Twenty Second day of April Two Thousand Sixteen
PRESENT

The Hon`ble Mr.Justice V.S.RAVI

CRL MP(MD) No.1775 of 2016

IN

CRL A(MD) No.63 of 2016

SENTHILKUMAR

... PETITIONER/APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
MASARPATTI POLICE STATION,
THOOTHUKUDI DISTRICT.
CR. NO.78/2014

... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of imprisonment imposed by the Learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thoothukudi in S.C. No.35 of 2014 dated 25.01.2016 and enlarge the petitioner/Appellant on bail pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S S.R.A. RAMACHANDHRAN, Advocate for the petitioner and of MR.P.KANDASAMY, Govt.Advocate(Crl.Side) on behalf of the Respondents the court made the following order:-

This is a petition filed by the petitioner/Appellant/A1 to suspend the sentence imposed on him in S.C.No.35 of 2014 dated 25.01.2016 by the learned Sessions Judge, Mahalir Neethimandram, Fast Track Mahila Court, Thoothukudi.

2.It is clearly stated in the affidavit enclosed with the petition, by the father of the petitioner that the petitioner has been convicted for the offence under Section 4 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo rigorous imprisonment for seven years and directed to pay a fine of Rs.3,000/- in default to undergo rigorous imprisonment for one month and also convicted for the offence under Section 506(i) of I.P.C. and sentenced to undergo rigorous imprisonment for one year and directed to pay a fine of Rs.1,000/- in default to undergo rigorous imprisonment for one month. It is also reported that the fine amount has already been paid by the petitioner vide receipt No.A105453 dated 25.01.2016 and the same has been enclosed.

3.Further, it is stated in the affidavit that there is an enormous delay in lodging Ex.P1 complaint, which clearly shows that after consultation and discussion only, the present false case has been foisted against the appellant/A1.

4. Further, it is stated that the earlier statement has been suppressed and the earlier statement of P.W.1 has been received by P.W.9, the respondent police and he also admitted that he has placed the



statement received by him on 30.07.2014. Further, P.W.1, in her complaint Ex.P1, has stated that he is 19 years old and hence, the prosecution has failed to establish that P.W.1 is below 18 years of age, on the date of occurrence.

5. Further, it is stated that the evidence of P.W.1 is only partly believable and partly unbelievable and no other independent witnesses, as well as other witnesses, have supported the P.W.1's evidence. Further, it is stated that the appellant is having permanent residence and he will not evade the due process of law and in order to prove the permanent residence of the petitioner/appellant, he has produced, Aadhar card and ration card issued by the Competent Authorities.

6. Considering the submissions made on behalf of the petitioner/Appellant and in view of the various grounds raised in the memorandum of criminal appeal, this Court finds that there are substantial and arguable points in the present case. Further, when the appellate Court finds that due to practical reasons appeal cannot be disposed of expeditiously, the appellate Court must bestow special concern in the matter of suspending the sentence, as prayed for in the present petition, so as to make the appeal right meaningful and effective. Otherwise the very valuable right of appeal would be an exercise, in futility, by efflux of time.

7. Further, it is also seen that if certain stringent conditions are imposed, there is no chance for the accused to abscond. Further, after hearing the main appeal alone, the correct and proper finding in the main case can be given.

8. Further, it is seen that various points raised in the grounds of appeal require an indepth/threadbare examination at the time of final hearing of the main appeal and also on going through the various grounds raised in the memorandum of criminal appeal, at this stage, this Court, to prevent aberration of justice, suspends the substantial sentence of imprisonment alone pending disposal of the above criminal appeal with the following conditions;-

i) the petitioner/appellant/A1 shall be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties for a likesum to the satisfaction of the learned Sessions Judge, Mahalir Neethinmandram (Fast Track Mahila Court), Thoothukudi;

ii) the petitioner/appellant/A1 shall appear before the said Court on the first working day of first week and first working day of third week of every English Calendar month until further orders, failing which the said Court is directed to inform about the details of failure committed by the petitioner in complying with the said conditions, to the Registry of this Court, forthwith.

iii) the petitioner/Appellant/A1 shall furnish his present full details of his residential address along with the copies of the family ration card/Aadhar Card/voter ID card issued by the Election Commission of India and also phone numbers (mobile/landline) if any to the said Court in the form of an affidavit, after serving an advance true copy of the same to the respondent/police; and



iv) on receipt of the true copy of the said affidavit, the respondent /police is directed to verify the veracity of the particulars given in the said affidavit and also liberty is granted to respondent to take appropriate follow up action, in accordance with law.

sd/-

22/04/2016

WEB COPY

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK COURT),
THOOTHUKUDI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 3 THE INSPECTOR OF POLICE
MASARPATTI POLICE STATION, THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S S.R.A. RAMACHANDHRAN Advocate SR.No.22794

ORDER

IN

CRL MP (MD) No.1775 of 2016

IN

CRL A (MD) No.63 of 2016

Date :22/04/2016

PA/NGM-SS/AR I/26.04.2016/2P/6C