



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

Friday, the Fourth day of November Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.4791 of 2016

IN

CRL A(MD) No.217 of 2016

M.MUNIAPPAN

..PETITIONER/APPELLANT

Vs.

STATE REP.BY

THE INSPECTOR OF POLICE

PASUPATHIPALAYAM POLICE STATION,

KARUR DISTRICT.

(CRIME NO. 20/2014)

..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 passed against the petitioner by the Learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Karur in Spl.S.C.No. 5 of 2016 dated 20.05.2016 pending disposal of the above Crl.A.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S P.KRISHNASAMY, Advocate for the petitioner and of M/s.S.PRABHA, Government Advocate (Crl.Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed by wife of the Petitioner / Appellant, who is the sole accused in this case, praying to suspend the sentence passed against the petitioner, by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Karur in Spl.S.C.No.5 of 2016, dated 20.05.2016, pending disposal of the above Criminal Appeal.

2. After trial, he has been convicted and sentenced as under:

Conviction	Sentence
Section 9(m) r/w 10 of Protection of Children from Sexual Offences Act, 2012..	5 Years R.I. + Fine Rs.1,000/-, i/d 1 Month S.I.

3. The Court heard the submissions made by the learned counsel appearing for the petitioner and the learned Government Advocate (crl.side) appearing for the respondent and also perused the materials available on record.



4. The Petitioner / Appellant was convicted on 20.05.2016 and he is confined in Central Prison, Tiruchirappalli.

5. The learned counsel for the petitioner / appellant advances his argument pointing out the legal infirmities in the conviction recorded by the trial Court and there is prima facie case in favour of the accused.

6. The learned Government Advocate (crl.side) for the State would submit that the trial Court has rightly convicted the petitioner / appellant and would further submit that there is a prima facie case against the petitioner and therefore, prays for dismissal of this petition.

7. The victim female child in this case is aged about 4 years old. The victim female child along with her parents and the accused / convicted are residing in the same colony. It is patent from the Judgment of the trial Court that there is no eye-witness regarding the alleged occurrence, except the evidence of victim female child. The victim female child or the parents of the victim has no motive to falsely implicate the petitioner / appellant by making serious allegation of aggravated sexual assault, against the victim female child. The evidence of female child should not be rejected on the basis of minor discrepancies and contradictions. The victim female child is the best person to say about the sexual assault of the petitioner / appellant. In the case on hand, the contrary, as stated in Section 29 of the Protection of Children from Sexual Offences Act, 2012, is not proved by the accused. However, considering the nature of the accusation against the accused by the prosecution and also the period of incarceration in jail by the petitioner / appellant, this Court is inclined to order this petition as under:-

(i) Appeal bail granted.

(ii) Sentence of imprisonment ordered by the trial Court alone is suspended. There shall be two sureties, out of which, one of the surety should be the petitioner, who is the wife of the appellant. They shall execute a separate bond for Rs.15,000/- (Rupees Fifteen Thousand Only) each to the satisfaction of the learned Judicial Magistrate No.1, Karur.

(iii) The appellant shall appear before the said Court on the first working day of every month at 10.30 am., until further orders.

sd/-

04/11/2016

/ TRUE COPY /



1 THE SESSIONS JUDGE, MAHALIR NEETHI MANDRAM
(FAST TRACK MAHIL COURT), KARUR.

2 THE JUDICIAL MAGISTRATE NO.I, KARUR.

3 -do-thro' THE CHIEF JUDICIAL MAGISTRATE, KARUR.

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

5 THE INSPECTOR OF POLICE, PASUPATHIPALAYAM POLICE STATION,
KARUR DISTRICT.

6 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

+1. C.C. to M/S P.KRISHNASAMY Advocate SR.No.65918

ORDER IN
CRL MP(MD) No.4791 of 2016
IN
CRL A(MD) No.217 of 2016
Date :04/11/2016

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