



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

Friday, the Seventh day of October Two Thousand Sixteen

PRESENT

The Hon`ble Mr.Justice S.NAGAMUTHU  
and

The Hon`ble Mr.Justice M.V.MURALIDARAN

CRL MP(MD) No.8325 of 2016

IN

CRL A(MD) No.325 of 2016

PERIYASAMY

... PETITIONER/APPELLANT

Vs

STATE REP.BY ,  
THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
DINDIGUL

... 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 execution of Sentence in Spl.S.C.No.3 of 2014 dated 26.05.2016 on the file of the learned Mahila Fast Track Judge, Dindigul and enlarge the petitioner appellant on bail.

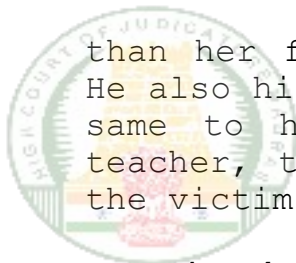
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S G.KARUPPASAMY PANDIYAN, Advocate for the petitioner and of MR.C.MAYILVAHANA RAJENDRAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

[Order of the Court was made by **S.NAGAMUTHU, J.**]

The petitioner is the sole accused in Spl.S.C.No.3 of 2014 on the file of the Mahila Fast Track Court, Dindigul. He has been found guilty for the offence punishable under Section 6 r/w 5(m) and (n) of the Protection of Children from Sexual Offences Act and sentenced to undergo imprisonment for life and to pay a fine of Rs.1,000/-, in default, to undergo six months imprisonment. Challenging the said conviction and sentence, the petitioner has come up with the present Criminal Appeal. Pending appeal, he seeks suspension of sentence.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the State. We have also perused the records carefully.

3. This is a case of father raping the daughter. The victim, in this case, was 12 years old at the time of occurrence. While at home, she was sexually exploited by the accused, who is none else



than her father, by showing animal behaviour towards his daughter. He also hit her and caused threat. However, the victim disclosed the same to his class teacher and on the information by the class teacher, the Child Welfare Committee made a complaint, upon which, the victim was rescued and the accused was prosecuted.

4. The learned counsel for the petitioner would submit that the evidence of P.W.1, the victim, cannot be believed. But, we find no force at all in the said argument. P.W.1 has categorically stated that the accused committed sexual assault on her. The learned counsel would point out that the medical evidence does not corroborate the same. This argument deserves to be rejected, because of the presumption contained in Section 29 of the Protection of Children from Sexual Offences Act. At any rate, there is no presumption of innocence and the presumption of guilt under Section 29 gets doubled by the conviction. The petitioner is not able to make out any case before us for suspension of sentence. The petition is, therefore, dismissed.

sd/-  
07/10/2016

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

TO

- 1 THE JUDGE, MAHILA FAST TRACK COURT, DINDIGUL.
- 2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, DINDIGUL
- 3 THE ADDITIONAL PUBLIC PROSECTUOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

ORDER  
IN  
CRL MP(MD) No.8325 of 2016  
IN  
CRL A(MD) No.325 of 2016  
Date :07/10/2016

SML  
CSL/EM-MPA/SAR-I/24.10.2016: 2P/5C