

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr. Justice S. VIMALA

CRIMINAL MISCELLANEOUS PETITION No.13848 of 2017

IN CRL A.644/2017

MANIKANADAN,

[PETITIONER]

Vs

STATE BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PERAMBALUR DISTRICT.
CRIME NO.07 OF 2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein the High Court will be pleased To suspend the execution of section 5 (J)(ii) R/W Section 6 of Protection of Children form Sexual Offences Act imposed by the Sessions Judge Mahila Court, Perambalur, in S.C.No.17/2015 on 06.10.2017 and to enlarge the appellant on bail, pending disposal of this appeal.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.T.DHARANI, Advocate for the petitioner and of PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This criminal appeal has been filed by the appellant/A-1, who was found guilty by the trial court for the offence under Section 5 (J)(ii) r/w Section 6 of the Protection of Children from Sexual Offences Act and Section 294 (b) and 506 (i) IPC and sentenced to undergo rigorous imprisonment for a period of 10 years along with fine of Rs.5,000/=-, in default, to undergo simple imprisonment for a period of three years under Section 5 (J) (ii) of the POCSO Act and 3 months simple imprisonment and fine of Rs.1,000/-, in default to undergo one month simple imprisonment under Section 294 (b) IPC and 2 years simple imprisonment and fine of Rs.3,000/-, in default to undergo six months simple imprisonment under Section 506 (i) IPC by the Sessions Judge, Magalir Neethimandram, Perambalur. Aggrieved by the said conviction and sentence, the present appeal has been filed by the first accused along with a miscellaneous petition for suspension of sentence.

2. Heard the learned counsel appearing for the petitioner and the learned Addl. Public Prosecutor appearing for the respondent and perused the materials available on record.

3. The victim girl, P.W.3, has filed an affidavit even before the trial court stating that she married appellant/A-1 and through him she had a child by name Haridoss and further made a statement that the defacto complainant, Prema, also got married to one Periyasamy on 19.1.16 and considering the marital interest of both the families, the accused, viz., A-1 must be acquitted. Even though criminal law has been set in motion on the basis of the complaint of the defacto complainant, Prema, during the course of investigation, it has also come to light that one minor Saranya, who is stated to be the relative of the accused was having relationship with the accused. The defacto complainant and the victim girl are related to each other and the victim girl is stated to be the niece by relation to the accused.

4. It is the claim of the learned counsel for the accused that the victim girl, viz., P.W.3 was aged above 18 years even at the time of occurrence and that the date of birth of the victim girl, P.W.3 is 20.4.1994. The age of the defacto complainant is said to be between 20 and 22 years. It is further submitted that the victim girl, P.W.3, never wanted to prosecute the accused and it is not on her complaint the prosecution was launched. It is also pointed out that the defacto complainant, who set the criminal law in motion, also has a male child by name Prithiviraj through one Periyasamy. It is therefore submitted that in the welfare of all the persons concerned and considering the affidavit of the victim girl before the trial court, the sentence imposed on the petitioner may be suspended.

5. Taking into consideration the submissions made by the learned counsel for petitioner and the related circumstances of the case, as narrated above, and further the fact that the Revision Case is not likely to be taken-up for final hearing in the near future this Court is of the considered view that the sentence imposed on the petitioner may be suspended.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on a condition that the petitioner shall execute a bond in a sum of Rs.10,000/- each (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Sessions Judge, Magalir Neethimandram, Perambalur, and on further condition that petitioner shall appear before the said Court on the first working day of every month, at 10.30 a.m., pending the appeal.

6. Post the Criminal Appeal in the usual course.

-sd/-

16/11/2017

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
MAGALIR NEETHIMANDARAM, PERAMBALUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 STATE BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PERAMBALUR DISTRICT.
CRIME NO.07 OF 2015.

C.C. to M/S.T.DHARANI Advocate on payment of necessary
charges

Order

in
CRL MP.13848/2017

in
CRL A.644/2017

Date :16/11/2017

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