

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Tuesday, the Fourteenth day of November Two Thousand Seventeen

PRESENT

The Hon`ble Dr Justice S.VIMALA

CRIMINAL MISCELLANEOUS PETITION No.13990 of 2017

IN CRL A.235/2017

MUTHUSAMY,

[APPELLANT/ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
PALLAPATTI POLICE STATION,
PALLAPATTI, SALEM DISTRICT
CR.NO.134 OF 2013.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.235 OF 2017 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner/ 2nd Accused S.C.No.205 of 2014 dated 16.08.2016 by Learned Sessions Judge, Mahila Court Salem till pending disposal of the above Criminal Appeal No.235 of 2017.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.235 of 2017 on the file of the High Court and upon hearing the arguments of MR.J.FRANKLIN, Advocate for the petitioner and of MR. V.ARUL, ADDL. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

The appellant, who is a senior citizen, aged about 74 years, has filed this criminal appeal challenging the judgment of the learned Sessions Judge, Magalir Neethimandram (Mahila Court), Salem, dated 16.8.2016 in S.C. No.205 of 2014 whereby the accused was found guilty under Section 4 r/w 17 of the Protection of Children from Sexual Offences Act and sentenced to rigorous imprisonment for a period of 7 years along with a fine of Rs.2,000/=, in default to undergo simple imprisonment for a period of three months. Along with the above criminal appeal, miscellaneous petition has been filed by the petitioner/accused for suspension of sentence.

2. The case of the prosecution is that the victim girl, studying 9th standard in a school at Chennai, was staying in the house of the appellant herein and that the accused had abetted the offence of penetrative sexual assault by providing a house to the victim girl as well as to the main offender.

3. It is conceded by the learned Addl. Public Prosecutor that excepting the allegation of providing a house, there is no other allegation against the appellant herein.

4. The crucial question that arises for determination in the present case is whether the act of the appellant in providing a house for the stay of the victim girl as well as the main offender would amount to abetment.

5. Considering the totality of the circumstances, and the fact that criminal appeal is not likely to be taken up for final hearing in the near future and considering the grounds of revision as also the important question as formulated above, this Court is of the view that the petitioner herein may be granted the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Sessions Judge, Magalir Neethimandram (Mahila Court), Salem, 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 criminal appeal.

7. Post the criminal appeal in the usual course.

-sd/-
14/11/2017

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 NEETHIMANDRAM (MAHILA COURT), SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PALLAPATTI POLICE STATION,
PALLAPATTI, SALEM DISTRICT

+1 C.C. to M/S.J.FRANKLIN Advocate on payment of necessary
charges-Sr.20885

Order

in
CRL MP.13990/2017

in
CRL A.235/2017

Date :14/11/2017

From 7.2.2001 the Registry is issuing certified
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ths : 16.11.2017