

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Sixth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr Justice N. AUTHINATHAN

CRIMINAL MISCELLANEOUS PETITION No.741 of 2017

IN CRL A.749/2016

PUSHBARAJ,

[PETITIONER]

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARIYALUR, ARIYALUR DISTRICT.
CR.NO.1 OF 2016

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.749/2016 on the file of the High Court, the High Court will be pleased to suspend the sentence and grand bail to the petitioner/appellant for the conviction and sentence imposed in Spl.SC.No.13 of 2016 dated 09.09.2016 on the file of Sessions Judge, Fast Track Mahila Court, Ariyalur District pending disposal of the above said Crl.A.No.749/2016.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.749/2016 on the file of the High Court and upon hearing the arguments of M/S.K.GANDHI KUMAR, Advocate for the petitioner and of MR. K. MADHAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

Heard both sides.

2.The petitioner seeks suspension of sentence pending disposal of the appeal.

3. The petitioner/appellant herein is the second accused in Spl.S.C.No.13 of 2016 on the file of the Sessions Judge, Fast Track Mahila Court, Ariyalur. He was found guilty

of the offence u/s.10 Tamil Nadu Prohibition of Child Marriage Act 2006, Sec.6 r/w 17 of the POCSO Act 2012 and 506(i) of IPC, convicted and sentenced as under:

S.No.	Conviction	Sentence
1.	506(i) IPC	6 months R.I. and fine of Rs.1000/- i/d 1 month S.I.
2.	6 r/w 17 of the POCSO Act 2012	10 years R.I. and fine of Rs.10,000/- i/d 1 year S.I.
3.	10 Tamil Nadu Prohibition of Child Marriage Act 2006	1 year R.I. and fine of Rs.20,000/- i/d 2 months S.I.

4. The case of the prosecution is that the first accused is the son of the second accused, who is the petitioner herein. The first accused married PW1. Misunderstanding arose between them and the 1st accused filed a case for divorce and his marriage was dissolved as an exparte decree.

5. Learned counsel for the petitioner would submit that the victim girl attained majority. Now she has been living with the family of the accused. Since the petitioner is father of the A1 he has been falsely implicated and he has not committed any offence as such and the trial Court has not analysed the case in its proper perspective and that therefore, he may be granted bail pending appeal by suspending the execution of the sentence.

6. Learned Government Advocate would admit that the victim girl attained majority and she has been living with the family of the petitioner.

7. I have perused the grounds of appeal and the judgment of the Trial Court. According to the petitioner, divorce has been granted exparte in favour of the 1st accused and a petition is pending for setting aside that exparte order. It is alleged by the prosecution that during the subsistence of earlier marriage, the petitioner's son developed intimacy with the victim girl and he sexually abused the victim and subsequently married the victim and at the time of marriage she was a minor. The petitioner has been sentenced as stated above and there is no fear that he will flee from justice. Having regard to the above mentioned peculiar facts, I am inclined to suspend substantive sentence of imprisonment alone subject to the following conditions.

8. Hence, the sentence of imprisonment imposed on the petitioner by the trial Court alone is hereby suspended till the disposal of the appeal and the petitioner is ordered to be enlarged on bail on his executing a bond for Rs.5,000/- [Rupees

Five thousand only] with two sureties each for a likesum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Ariyalur within a period of two weeks from the date of this order and on further condition that the petitioner shall report before the trial Court once in a week on every Monday at 10.30 a.m. until further orders.

9. On the failure of the petitioner, to comply with any of the above said conditions, the suspension granted to him shall stand automatically cancelled and the Magistrate concerned shall take necessary steps to secure the petitioner/accused.

-sd/-

06/07/2017

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 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARIYALUR, ARIYALUR DISTRICT.

2 THE SESSIONS JUDGE
FAST TRACK MAHILA COURT, ARIYALUR DISTRICT

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

+1 C.C. to M/S.K.GANDHI KUMAR Advocate on payment of
necessary charges Sr.No.12397

Order
in
CRL MP.741/2017
in
CRL A.749/2016

Date :06/07/2017

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MD: 11/07/2017