



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

Wednesday, the Twelfth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.5435 of 2017
IN
CRL A (MD) No.200 of 2017

A. ANTONY CRUZ

... APPELLANT/ACCUSED NO.1

Vs

THE STATE OF TAMIL NADU
REPRESENTED BY ITS
THE INSPECTOR OF POLICE,
PERIYAKULAM POLICE STATION, THENI DISTRICT.
CRIME NO.210/2013

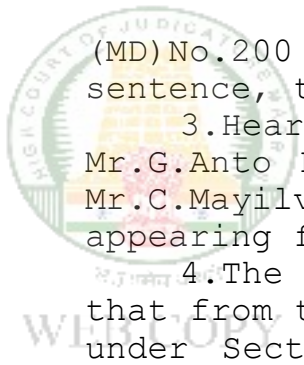
... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and grant bail to the Appellant/Accused No.1 pending disposal of the Criminal Appeal before this Honourable Court against the Judgement dated 08/05/2017 passed in Special SC.No.7/2014 on the file of the Sessions Judge, (Fast Track Mahila Court) Theni in Crime No.210/2013 on the file of the Respondent police station pending disposal of the Appeal.

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

This petition has been filed praying to suspend the sentence imposed against the petitioner/accused No.1 in S.C.No.7 of 2014 by the Sessions Court, (Fast Track Mahila Court), Theni.

2.The petitioner stood charged for an offence under Sections 294(b), 354, 506(i) of IPC and Section 8 of Protection of Children From Sexual Offences Act, 2012. The trial Court convicted the petitioner under Section 294(b) of I.P.C., and sentenced him to undergo three months simple Imprisonment, for the offence under Section 354 of I.P.C., he was sentenced to undergo two years simple Imprisonment, and also for the offence under Section 506(i) of I.P.C., he was sentenced to undergo two years simple Imprisonment. He was also convicted by the trial court under Section 8 of Protection of Children From Sexual Offences Act 2012 and sentenced to undergo five years rigorous imprisonment and imposed a fine of RS.5,000/-, in default, to undergo one year rigorous imprisonment. Against the conviction and sentence passed by the trial Court, Crl.A



(MD)No.200 of 2017 has been filed and in order to suspend the sentence, the present Miscellaneous Petition is filed.

3.Heard Mr.Thirumurugan, the learned Counsel, appearing for Mr.G.Anto Prince, learned counsel on record for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.

4.The learned counsel appearing for the petitioner submitted that from the evidence of P.W.2/victim, it is clear that no offence under Sections 294(b), 354, 506(i) of IPC and Section 8 of Protection of Children From Sexual Offences Act 2012 has been made out. Even the respondent police did not follow the procedure in conducting the investigation. It is a flawed investigation, and the co-accused were already granted suspension of sentence by this Court in Crl.A(MD).No.223 of 2017, dated 11.07.2017. The petitioner also a similarly placed person and he has been in jail from 08.05.2017.

5.Considering the facts and circumstances of the case and also considering the fact that co-accused were already granted bail and since there are some arguable points involved in the appeal and it may take a long time for taking up the appeal for hearing, I am inclined to suspend the sentence of imprisonment alone imposed against the petitioner.

6.In fine, this petition is allowed and the substantive sentence of imprisonment imposed on the petitioner alone is suspended and the petitioner shall be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, (Fast Track Mahila Court), Theni with a further condition that the petitioner shall report before the committal Court on the first working day of every English Calender month at 10.30 a.m., till the disposal of the appeal or until further orders.

sd/-

12/07/2017

/ TRUE COPY /

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

TO

- 1 THE SESSIONS JUDGE, (FAST TRACK MAHILA COURT), THENI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE,
PERIYAKULAM POLICE STATION, THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.T.LAJAPATHI ROY Advocate SR.No.26408

ORDER IN

CRL MP(MD) No.5435 of 2017 IN
CRL A(MD) No.200 of 2017

Date :12/07/2017