



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

Thursday, the Seventeenth day of August Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP (MD) No.5782 of 2017
IN
CRL A (MD) No.214 of 2017

P. SARATHKUMAR

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
SWAMIMALAI POLICE STATION, THANJAVUR DISTRICT.
CRIME NO.275/2015

... RESPONDENT/RESPONDENT

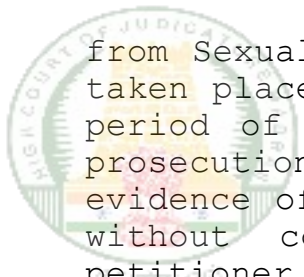
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed in S.C.No.04/2016 dated 19/06/2017 on the file of Mahalir Court (Fast Track Court) Thanjavur pending disposal of the Crl.A

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

The petitioner/sole accused stood convicted for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo seven years rigorous imprisonment and imposed a fine of Rs.1,000/-, in default to undergo six months simple imprisonment. Challenging the above conviction and sentence, the present Criminal Appeal has been filed. Pending appeal, the petitioner sought for suspension of sentence.

2.Heard Mr.A.Arun Prasad, learned Counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.

3.The learned counsel appearing for the petitioner would contend that there was a love affair between the petitioner and victim girl and as per the evidence of PW1/victim girl, both the petitioner and PW1 have loved each other for more than two years and the petitioner has also promised to marry her and only on that score, he has had sexual intercourse with the victim girl. Hence, no offence is made out under Section 4 of the Protection of Children



from Sexual Offences Act, 2012. Apart from that, the occurrence has taken place on 05.06.2015, but the complaint has been filed after a period of one month and the delay has not been explained by the prosecution. Moreover, there are lot of contradictions in the evidence of victim girl as well as other witnesses. The Court below without considering all those infirmities has convicted the petitioner.

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4.I have considered the submissions made by the learned counsel for the petitioner and perused the records carefully.

5.Considering the facts and circumstances of the case and also considering that there are arguable points in the case, 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/sole accused 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 Mahalir Court/Fast Mahila Court, Thanjavur 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/-

17/08/2017

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

TO

1 THE JUDGE,
THE MAHALIR COURT/FAST MAHILA COURT, THANJAVUR.

2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE,
SWAMIMALAI POLICE STATION, THANJAVUR DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.A.ARUN PRASAD Advocate SR.No.28869

ORDER IN
CRL MP(MD) No.5782 of 2017 IN
CRL A(MD) No.214 of 2017
Date :17/08/2017