



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

Monday, the Tenth day of July Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL MP(MD) No.5880 of 2017
IN
CRL A(MD) No.223 of 2017

AROCKIYASAMY

... PETITIONER/APPELLANT

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE
PERIYAKULAM POLICE STATION, PERIYAKULAM,
THENI DISTRICT

... RESPONDENT/RESPONDENT

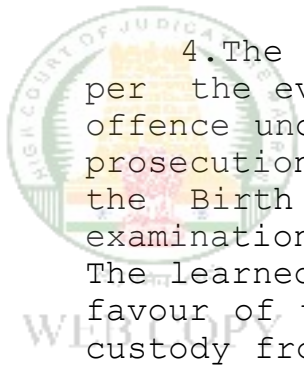
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed by the Fast Track Mahila Court (Sessions Judge), Theni in Special SC.No.7/2014 dated 08/05/2017 and enlarge the petitioner on bail pending disposal of the above 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.C.VAKEESWARAN, Advocate for the petitioner 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 passed by the Fast Track Mahila Court(Sessions Judge), Theni in Special S.C.No.7 of 2014, dated 8.5.2017 and to enlarge the Petitioner on bail pending disposal of the above appeal.

2.The Petitioner/A2 along with first accused has been convicted for the offence under Section 294(b) of IPC and sentenced to undergo simple imprisonment for three months and has been convicted under Section 354 of IPC and sentenced to undergo simple imprisonment for two years and has been convicted under Section 506 (i)IPC and sentenced to undergo simple imprisonment for two years has also been convicted under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.5,000/- and all the sentences are ordered to be run concurrently. Challenging the same, the present appeal has been filed.

3.Heard Mr.C.Vakeeswaran, the learned Senior Counsel appearing for the appellant/petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor appearing for the respondent and perused the records carefully.



4.The learned counsel for the appellant would contend that as per the evidence of P.W.1/victim girl, no case is made out for the offence under Section 8 of the POCSO Act. Apart from the above, the prosecution did not prove the fact that the victim is a minor and the Birth Certificate was also not marked. Moreover, medical examination was also not conducted to prove the alleged incident. The learned Counsel also submitted that there are arguable points in favour of the petitioner. Further, the Petitioner is under judicial custody from 8.5.2017.The fine amount has also been paid before the trial Court.

5.Considering the facts and circumstances of the case and also considering the nature of the offence said to have been committed by the petitioner, 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 Fast Track Mahila Court(Sessions Judge), Theni with a further condition that the petitioner shall report before the said 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/-

10/07/2017

/ TRUE COPY /

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

TO

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

+1cc to Mr.C.Vakeeswaran, Advocate SR.No.26132

SM:PM-PN:SAR 2:13.7.2017:2P/6C

ORDER

IN

CRL MP(MD) No.5880 of 2017

IN

CRL A(MD) No.223 of 2017

Date :10/07/2017