



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

Friday, the Thirteenth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.8613 of 2017
IN
CRL A(MD) No.377 of 2017

C.ROSHAN

... PETITIONER/APELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE,
PONMALAI ALL WOMEN POLICE STATION,
TIRUCHIRAPPALLI.
(IN CRIME NO.10/2016)

... 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 by the learned Sessions Judge, Mahila Court, Tiruchirappalli in Special S.C.No.6 of 2016 dated 08.09.2017, pending disposal of this appeal and release the petitioner on bail and thus render justice.

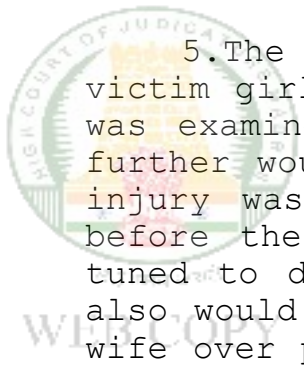
Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.J.SELVAM, Advocate for the petitioner and of MR.T.MOHAN, Additional Public Prosecutor on behalf of the Respondent the court made the following order:-

The petitioner / accused in S.C.No.6 of 2016 on the file of the Sessions Judge, Mahila Court, Tiruchirappalli, while challenging his conviction and sentence, seeks appeal bail under Section 389(1) Cr.P.C.

2. After trial, the petitioner was found guilty for the offence under Section 7 r/w 8 of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo 5 years R.I. and also imposed fine of Rs.1000/0 i/d to undergo 6 months S.I.

3.The petitioner paid the fine amount and he is confined in Central prison, Trichy from the date of judgment ie., from 08.09.2017 onwards.

4.The learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent are present. Heard both sides.



5.The learned counsel for the petitioner would submit that the victim girl, aged about 7 years, was examined as P.W.1, her mother was examined as P.W.2 and her father was examined as P.W.3. He further would submit that as per the medical evidence, no physical injury was caused to the victim girl and during her examination before the court below, the victim, herself has admitted she was tuned to depose by the mother and also the police officials. He also would submit that at the first instance, P.W.3 has called his wife over phone to send the victim to the house of the accused for watching movie, but, P.W.3 is contrary to the same. He would further submit that the grandmother of the victim has also accompanied to the victim to go to the accused house and the brother of the victim was also present at the time of occurrence, however, he was not examined in this case. As per the FIR, the first information obtained by the Child Help Line, however, the said Child Help Line Official was also not examined in this case. Hence, he would submit that there are very many legal infirmities in the conviction recorded by the Trial Court and they are required to be revised. He also submitted that there is prima facie case in favour of the petitioner.

6.The learned Additional Public Prosecutor appearing for the respondent submitted that the court below has rightly convicted the petitioner on the basis of the evidence adduced by the prosecution and there is no prima facie case in this appeal. He also submitted that P.W.1 was not cross examined by the petitioner herein on the date of chief examination and he took nearly one month for cross examination. However, he has no objection to grant order of suspension.

7.In the facts and circumstances, perusing the impugned Judgment and the materials on record, I am of the view that certain eminently arguable points are involved in this criminal appeal. They are required to be examined in detail in the main Criminal Appeal. Accordingly, the petition is allowed on the following conditions:

- (i) Appeal bail is granted.
- (ii) Substantial sentence alone is suspended on condition that the petitioner shall execute a bond for Rs.10,000/- (Rupees ten thousand only) with two sureties for the likesum each to the satisfaction of the learned Sessions Judge, Mahila Court, Tiruchirappalli.
- (iii) The petitioner shall appear before the Court concerned on the first working day of every month at 10.30 a.m., until further orders.

sd/-

13/10/2017

/ TRUE COPY /



TO

1 THE SESSIONS JUDGE,
MAHILA COURT, TIRUCHIRAPPALLI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPPALLI.

3 THE INSPECTOR OF POLICE,
PONMALAI ALL WOMEN POLICE STATION, TIRUCHIRAPPALLI.

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

+1. C.C. to M/S.J.SELVAM Advocate SR.No.32803

ORDER

IN

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IN

CRL A (MD) No.377 of 2017

Date :13/10/2017

MKV-CM-MSA-SAR 2/23.10.2017/3P-6C