



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

Wednesday, the Tenth day of May Two Thousand Seventeen

PRESENT

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

CRL MP(MD) No.874 of 2017
IN
CRL A(MD) No.27 of 2017

MANI,

... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

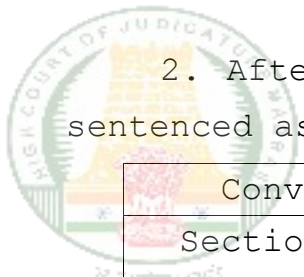
STATE REP BY
THE INSPECTOR OF POLICE,
ORATHANADU POLICE STATION,
THANJAVUR DISTRICT.
(CRIME NO.370/2014)

... 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 of Imprisonment imposed by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur in Spl.S.C.No.27 of 2014 by the Judgement dated 19.12.2016 and enlarge the Petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.KARUNANITHI, Advocate for the petitioner and of on behalf of the Respondent the court made the following order:-

The Criminal Miscellaneous Petition has been filed by the Petitioner / Sole Accused, praying to suspend the sentence of imprisonment imposed on him, by the learned Sessions Judge, Mahalir Neethimandram (Fast Track Court), Thanjavur, in Spl.S.C.No.27 of 2014, dated 19.12.2016 and enlarge the petitioner / accused on bail, pending disposal of the above Criminal Appeal.



2. After trial, the petitioner / accused has been convicted and sentenced as under:

Conviction	Sentence
Section 365 of IPC.,	7 Years R.I. + Fine 1,000/-, i/d 3 Months S.I.
Section 366 of IPC.,	10 Years R.I. + Fine 1,000/-, i/d 3 Months S.I.
Section 6 of POCSO Act, 2012,	10 Years R.I. + Fine 1,000/-, i/d 3 Months S.I.

3. Aggrieved by the order of conviction, the petitioner / sole accused has preferred an appeal in CrI.A.No.27 of 2017 and is pending before this Court. The petitioner / accused filed the present petition, seeking suspension of sentence of imprisonment imposed by the trial Court in Spl.S.C.No.27 of 2014, vide its Judgment, dated 19.12.2016. The petitioner has stated that fine amount has been paid vide receipt No.I905341, dated 22.12.2016, but no proof of payment of fine amount is filed before this Court.

4. The learned counsel appearing for the Petitioner / Accused would contend that there are material contradictions between witnesses, which will affect the root of the case and all the material documents have been sent to the Court belatedly and no explanation was offered, which is fatal to the prosecution case and that the earlier complaint has also been suppressed and no record or document is produced to substantiate the above contention. He would further contend that the trial Court has failed to give an opportunity to cross-examine the witnesses by the defence counsel and others. There was no fair trial, as contemplated under the Constitution.

5. The learned Government Advocate (crl.sisde) appearing for the respondent by relying on the counter statement of the respondent would contend that the trial Court has rightly convicted the petitioner / accused on appreciating the evidence adduced by the prosecution and the petitioner is not having any prima facie case in



this appeal and the Doctor's evidence and the victim's evidence prove the case of the prosecution in respect of repeated aggravated penetrative sexual assault by the petitioner against the minor victim girl and therefore prayed for dismissal of this petition.

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6. On perusal of the trial Court Judgment would reveal the fact that P.Ws.1 to 6 were not cross-examined and P.Ws.7 and 8 Observation Mahazar witnesses turned hostile during evidence, though they have admitted their signatures found in the said Mahazar. The victim girl is aged about 17 years and 7 months old, at the time of occurrence. The trial Court has convicted the petitioner relying the evidence of minor victim girl and also the other witnesses, including the Doctor's evidence P.W.9, who examined the victim girl and P.W.11, who examined the accused, who is married and close relative of the victim girl.

7. Considering the above facts and circumstances of the case and also on perusal of the trial Court Judgment, this Court is not inclined to suspend the execution of sentence imposed on the petitioner / accused, by the trial Court, at present.

8. In the result, this Criminal Miscellaneous Petition, seeking suspension of sentence stands dismissed.

9. Registry is directed to post the case for final hearing, since the accused is in custody, after receipt of the trial Court records.

sd/-

10/05/2017

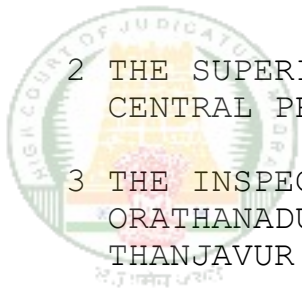
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

<https://hcservices.ecourts.gov.in/hcservices/>

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THANJAVUR.



2 THE SUPERINTENDENT
CENTRAL PRISON, TRICHY

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

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

COPY TO
THE REGISTRAR (JUDICIAL)
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.874 of 2017
IN
CRL A (MD) No.27 of 2017
Date :10/05/2017

SVA/PN/15.2017/SAR4/4P/6C