

IN THE HIGH COURT OF JUDICATURE AT MADRAS

( Criminal Jurisdiction )

Wednesday, the Twenty Fourth day of October Two Thousand Eighteen  
PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.11674 of 2018

IN CRL.A.NO.529 OF 2018

GUNASEKARAN

[ PETITIONER ]

Vs

THE STATE REPRESENTED BY ITS [ RESPONDENT ]  
THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
THIRUVANNAMALAI.  
CR.NO.22 OF 2013.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.529 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the conviction and sentence passed in S.C.No.82 of 2014 dated 09.08.2018 on the file of Learned Sessions Judge, Fast Track Mahil Court, Thiruvannamalai, till the disposal of the CRL.A.NO.529 OF 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.529 OF 2018 on the file of the High Court and upon hearing the arguments of MR.R.KUMARAVEL, Advocate for the petitioner and of M/S.V.SARATHA DEVI, Govt. Advocate ( Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioner, who is the sole accused, was convicted by the learned Sessions Judge, Fast Track Mahila Court, Thiruvannamalai, in S.C.No.82 of 2014 dated 09.08.2018 for the offence under Section 366 (A) IPC and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.5,000/- in default, to undergo simple imprisonment for six months. He was also convicted for the offence under Section 4 of Protection of Children from Sexual Offences Act and sentenced him to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.10,000/- in default, to undergo simple imprisonment for six months. As against the said conviction and sentence, the above criminal appeal is filed and now the petitioner/accused seeks to suspend the above said sentence pending disposal of the above criminal appeal.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the State and perused the records.

3. Learned counsel appearing for the petitioner/accused would contend that there is a considerable delay in filing the FIR and the evidence of P.W.1, the victim girl and P.W.2, the mother of the victim girl are artificial and improbable and conducting of the private prosecution witnesses, there are material contradiction with regard to the material facts touching upon the charges framed therein and hence, it is contended that the trial Court has wrongly convicted the petitioner herein/accused and seeks for suspension of sentence.

4. After perusing the evidence of P.W.1/victim girl and the answer elicited in the cross-examination, the evidence of P.W.2/mother of the victim girl, the evidence of P.W.9/maternal uncle of the victim girl and P.W.10/cousin sister of P.W.2 and certain material contradiction has been pointed out during the argument of the petitioner's counsel and after going through the records and the answer elicited in the cross-examination of the Investigating Officer, I am inclined to grant suspension of sentence to the petitioner.

5. Accordingly, the substantive sentence of imprisonment alone could be suspended pending appeal subject to the following conditions:-

[i] The petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Thiruvannamalai; and

[ii] the petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. till the disposal of the above criminal appeal.

WEB COPY  
-sd/-  
24/10/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,  
FAST TRACK MAHILA COURT,  
THIRUVANNAMALAI.

2 THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
THIRUVANNAMALAI.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,  
CENTRAL PRISON, VELLORE.

**COPY TO:**

1 THE REGISTRAR GENERAL,  
HIGH COURT, MADRAS-104.

2 THE REGISTRAR JUDICIAL,  
HIGH COURT, MADRAS-104.

3 THE SECTION OFFICER,  
'B' SECTION,  
HIGH COURT, MADRAS-104.

4 THE SECTION OFFICER,  
'F' SECTION,  
HIGH COURT, MADRAS-104.

+1C.C. to M/S.R.KUMARAVEL Advocate on payment of necessary  
charges in SR.NO. 19835

Order

in  
CRL MP.11674/2018

in  
CRL.A.No.529 OF 2018

Date :24/10/2018

From 7.2.2001 the Registry is issuing certified  
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MLT-25/10/2018

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