

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Third day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice C. T. SELVAM

CRIMINAL MISCELLANEOUS PETITION No.16718 of 2017

IN CRL A.328/2016

PITCHAIPILLAI

[PETITIONER]

Vs

STATE BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
KUVAGAM POLICE STATION,
ARIYALUR DISTRICT.
CR.NO.121 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.328/2016 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed against the petitioner dated on 12.04.2016 in Spl.S.C.no.4/2016 (on the file of the Sessions Judge, Fast Track Mahila court, Ariyalur) and enlarge the petitioner on bail till the disposal of the criminal appeal.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.328/2016 on the file of the High Court and upon hearing the arguments of M/S.P.PUGALENTHI, Advocate for the petitioner and of MR. V. ARUL, Additional Public Prosecutor, on behalf of the Respondent the court made the following order:-

Petitioner, the sole accused, faced trial in Spl.SC.No.4/2016 on the file of learned Sessions Judge, Magalir Needhimandram [Fast Track Mahila Court], Ariyalur. Trial Court, under judgment dated 12.04.2016, convicted the petitioner for the commission of the offences u/s.451 IPC and 10 of the Protection of Children from Sexual Offences Act and sentenced him to undergo 1 year rigorous imprisonment and to pay a fine of Rs.1,000/- with a default sentence of 3 months simple imprisonment for the offence u/s.451 IPC and to undergo 5 year rigorous imprisonment and to pay a fine of Rs.5000/- with a default sentence of 1 year simple imprisonment for the offence

u/s.10 of the Protection of Children from Sexual Offences Act. The sentences were ordered to run concurrently. Challenging the conviction and sentence, the petitioner has preferred the above appeal and this miscellaneous petition has been filed seeking suspension of sentence, pending appeal.

2 The case of the prosecution is that on the date of occurrence, the petitioner/accused trespassed into the house of the victim girl aged about 15 years/daughter of P.W.1 and committed the offence on her who is mentally retarded.

3 Learned counsel for petitioner would submit that there are several infirmities and inconsistencies in the prosecution case. Learned counsel further informs that as per the Medical Certificate issued by Dr.M.Sudhagaran, Assistant Dental Surgeon attached to the Government Hospital, Jayamkondam, the age of the victim is assessed as "above 18 years" and as such, the provisions of the Protection of Children from Sexual Offences Act, would not be attracted. It is his further submission that the petitioner is in jail for nearly 1 ½ years.

4 Heard learned Additional Public Prosecutor on the submissions made by learned counsel for petitioner.

5 Taking into consideration the submissions of learned counsel for petitioner and that the criminal appeal is not likely to be taken up for final hearing in the near future and further considering the fact that the appellant/petitioner/accused is undergoing incarceration from 12.04.2016, this Court is of the view that petitioner herein may be granted the relief of suspension of sentence.

6 Accordingly, the substantive sentence of imprisonment alone is suspended and petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond in a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of learned Sessions Judge, Magalir Needhimandram [Fast Track Mahila Court], Ariyalur and on further condition that petitioner shall appear before the said Court on the first working day of every month at 10.30 a.m. pending appeal.

-sd/-

03/01/2018

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
MAGALIR NEEDHIMANDRAM (FAST TRACK MAHILA
COURT, ARIYALUR

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 STATE BY
THE INSPECTOR OF POLICE, KUVAGAM POLICE
STATION, ARIYALUR DISTRICT.CR.NO.121 OF 2015.

+1 C.C. to M/S.P.PUGALENTHI Advocate on payment of
necessary charges Sr.NO.89

Order
in
CRL MP.16718/2017
in
CRL A.328/2016

Date :03/01/2018

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MD: 05/01/2018