

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Ninth day of April Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice RMT. TEEKAA RAMAN

CRIMINAL MISCELLANEOUS PETITION No.952 of 2018

IN CRL A.50/2018

K.DEIVASIGAMANI,

[APPELLANT/ACCUSED]

Vs

STATE REPRESENTED BY

[RESPONDENT]

THE INSPECTOR OF POLICE,

N-1, ROYAPURAM POLICE STATION,

ROYAPURAM, CHENNAI-13.

CR.NO.209 OF 2015.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal APPEAL No.50 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence and enlarge the Petitioner on bail in S.C.No286 of 2015 on the file of Special Court for cases under The protection of Children from Sexual Offences Act 2012, (POCSO Act 2012) Mahila Court, Chennai-104, Judgment dated 12.12.2017 till pending disposal of this Crl.Appeal No.50 of 2018.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.50 of 2018 on the file of the High Court and upon hearing the arguments of M/S.S.SARAVANAN, Advocate for the petitioner and of Mr.T.SHANMUGA RAJESWARAN, Government Advocate (Crl.Side) on behalf of the Respondent the court made the following order:-

This appeal has been filed against the order of conviction passed under Section 6 of the Protection of Children from Sexual Offences Act, 2012 and sentencing the petitioner to undergo 10 years Rigorous Imprisonment and to pay a fine of Rs.10,000/- in default to undergo further period of 6 months Rigorous Imprisonment. Considering the future and the mental trauma undergone by the child, a compensation of Rs.50,000/- was ordered.

2. The learned counsel for the petitioner submitted that the Date of Birth of the victim was not proved in a manner known to law and the date of alleged arrest as well as the date of FIR are not proved by the prosecution which creates suspicion in the entire prosecution case.

3. The learned Government Advocate (Crl.Side) would submit that the prosecution heavily relied on the School transfer certificate and to fortify it, the headmistress of the School was examined as PW11 through whom the transfer certificate, Ex.P14 was marked.

4. Further, the Investigation Officer in his evidence clearly had deposed about the time of registration of First Information Report and the time at which it was received by the learned Magistrate concerned. In such circumstances, learned Government Advocate (Crl.Side) prayed for dismissal of this petition.

5. After going through the evidence and documents filed before the Court, particularly, the deposition of PW11 and Ex.P14, I am not inclined to suspend the sentence for the present.

6. With the above observation, this Criminal Miscellaneous Petition is dismissed.

-sd/-
09/04/2018

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 SPECIAL COURT FOR CASES
UNDER THE PROTECTION OF CHILDREN FROM SEXUAL
OFFENCES ACT 2012, (POCSO ACT 2012)
MAHILA COURT, CHENNAI-104.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
N-1, ROYAPURAM POLICE STATION,
ROYAPURAM, CHENNAI-13.

+1 C.C. to M/S.S.SARAVANAN Advocate on payment of necessary
charges-Sr.6790

Order

in
CRL MP.952/2018

in
CRL A.50/2018

Date :09/04/2018

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ths : 12.04.2018