

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Tenth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.16456 of 2018

IN CRL.A.NO.346 OF 2018

ANNAMALAI

[PETITIONER / APPELLANT / ACCUSED]

Vs

THE STATE REP BY ITS,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VELLORE,
VELLORE DISTRICT
CR.NO.05 OF 2015.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.346 OF 2018 on the file of the High Court, the High Court will be pleased to suspend the sentence of imprisonment imposed in the judgment dated 24.04.2018 made in Spl.S.C.No.45 of 2015 on the file of the Sessions Judge Magalir Neethi mandran (Fast Track Mahila Court) At Vellore and enlarge the petitioner on bail pending disposal of the above CRL.A.NO.346 OF 2018

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.346 OF 2018 on the file of the High Court and upon hearing the arguments of M/S.S.PARTHEEBAN, Advocate for the petitioner and of MRS.V.SARATHADEVI Govt. Advocate (Crl. Side) on behalf of the Respondent the court made the following order:-

The petitioner/appellant is the sole accused in Spl.S.C.No.45 of 2015, on the file of the Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Vellore. By judgment dated 24.04.2018, the trial Court has convicted the appellant for offences under Sections 363, 366 of the Indian Penal Code and Section 6 r/w 5(m) of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for brevity). He was sentenced to undergo Rigorous Imprisonment for one year and to pay a fine of Rs.1,000/-, in default, to undergo Simple Imprisonment for one month for offence under Section 363 IPC and sentenced to undergo Rigorous Imprisonment for two years and to pay a fine of Rs.2,000/-, in default, to undergo Simple Imprisonment for two months for offence under Section 366 IPC and sentenced to undergo Rigorous Imprisonment for ten years and to pay a fine of Rs.3,000/-, in default, to undergo three months Simple Imprisonment for offence

under Section 4 of POCSO Act, 2012. Hence, the petitioner seeks suspension of sentence.

2.The learned counsel for the petitioner/appellant submitted that the petitioner has not committed the offence as alleged by the prosecution. He has also submitted that there is a delay of two days in lodging the complaint regarding the alleged occurrence. The prosecution case is based on conjectures and surmises. There is no direct eye witness to the occurrence. P.W.1, the mother of the victim girl, is an interested witness and therefore, her evidence cannot be the base for the prosecution case. The Doctor's report (P.W.8) also has not supported the case of the prosecution. There are lot of contradictions in the prosecution case and therefore, the sentence imposed by the trial Court needs to be suspended, is the contention raised by the learned counsel for the petitioner.

3.The learned Government Advocate would submit that the petitioner has taken the victim girl to the Municipality toilet, where he committed sexual assault on her, attracting the provisions of the POCSO Act. The incident has been clearly narrated by the prosecution witnesses and other documents and therefore, the petitioner is not entitled to be released on bail.

4.Considering the facts and circumstances of the case, the submissions made by the learned Government Advocate and the nature of offence committed by the accused, this Court is not inclined to suspend the sentence. Accordingly, this petition is dismissed for the present.

-sd/-

10/12/2018

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

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Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

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TO

1 THE SESSIONS JUDGE MAGALIR
NEETHI MANDRAM [FAST TRACK MAHILA COURT]
AT VELLORE.

2 THE SUPERINTENDENT,
CENTRAL JAIL, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VELLORE,
VELLORE DISTRICT.

C.C. to M/S.S.PARTHEEBAN Advocate on payment of necessary
charges

Order

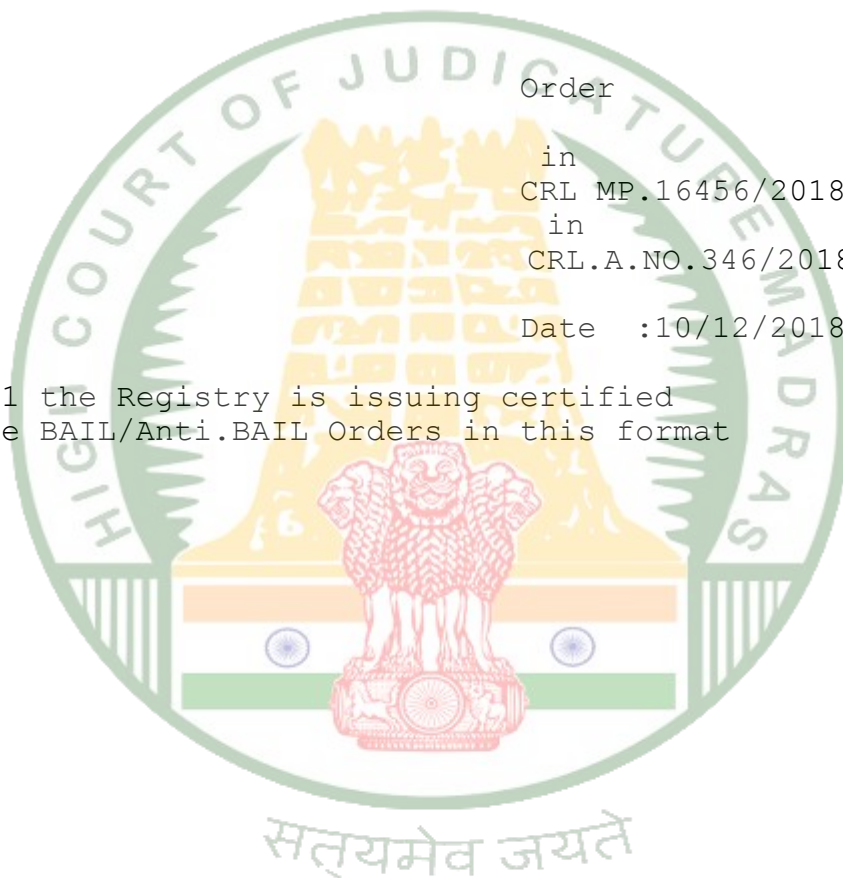
in
CRL MP.16456/2018

in
CRL.A.NO.346/2018

Date :10/12/2018

From 7.2.2001 the Registry is issuing certified
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MK:14/12/2018



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