



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

Thursday, the Seventh day of June Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice C.T.SELVAM  
and  
The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL MP(MD) No.2895 of 2018  
IN  
CRL A(MD) No.181 of 2018

UDHYANITHI,

... PETITIONER/APPELLANT

Vs

STATE REP BY  
THE INSPECTOR OF POLICE,  
BUDALUR POLICE STATION,  
THANJAVUR DISTRICT.  
(CRIME NO.117/2015)

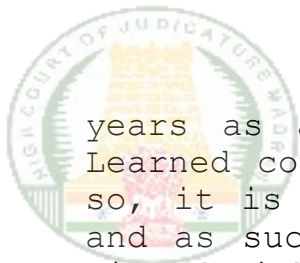
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may 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.20 of 2016 by the Judgment dated 12.06.2017 and enlarge the Petitioner/Appellant on bail, pending disposal of the abovesaid Criminal Appeal and thus render justice.

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

[Order of the Court made by **C.T.SELVAM, J.**]

Petitioner was arrayed as sole accused in Spl.S.C.No.20 of 2016 on the file of Sessions Judge, Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur, and under judgment dated 12.06.2016 he has been convicted for offences under Section 6 r/w 5(m) of Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo 3 months simple imprisonment and to pay compensation of Rs.2 lakhs. Petitioner has come forward with the above miscellaneous petition seeking relief of suspension of sentence pending appeal.



years as also all other material witnesses have turned hostile. Learned counsel for petitioner further submits that if their doing so, it is not on a day distant from the date of chief examination and as such, the fact of their having turned hostile, need not be viewed with suspicion.

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3. Per contra, learned Additional Public Prosecutor contended that the prosecution has established its case beyond all reasonable doubt and the minor discrepancies found in the evidence of the prosecution witnesses will not affect the prosecution case in its entirety. He further submitted that although P.W.2 had been treated hostile, a reading of her evidence in chief, would indicate that she indeed had spoken to a sexual assault by the appellant. Ex.P.12 medical examination report issued by P.W.10, Doctor, is of the date of occurrence. The same reveals the probability of the victim P.W.2, having been subjected to sexual assault. Section 29 of the Protection of Children from Sexual Offences Act, 2012 imposes a duty upon court to presume culpable mental state. He strongly opposed the grant of the relief of suspension of sentence to petitioner.

4. In the circumstance, this Court is not inclined to suspend the sentence and this Criminal Miscellaneous petition shall stand dismissed.

sd/-

07/06/2018

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

TO

- 1 THE SESSIONS JUDGE,  
MAHALIR NEETHIMANDRAM  
(FAST TRACK MAHILA COURT), THANJAVUR
- 2 THE SUPERINTENDENT  
CENTRAL PRISON, TRICHY
- 3 THE INSPECTOR OF POLICE,  
BUDALUR POLICE STATION, THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

ORDER

IN

CRL MP(MD) No.2895 of 2018

IN

CRL A(MD) No.181 of 2018

Date : 07/06/2018