



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

Thursday, the Nineteenth day of July Two Thousand Eighteen

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4006 of 2018

IN

CRL A(MD) No.96 of 2016

BALUSAMY

... PETITIONER / APPELLANT

Vs

THE STATE REPRESENTED BY
THE INSPECTOR OF POLICE
PASUPATHIPALAYAM POLICE STATION,
KARUR DISTRICT .
IN CRIME NO. 591 OF 2014

... RESPONDENT / RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence of Imprisonment imposed by the learned Sessions Judge Mahalir Fast Track Court, Karur in Spl. S.C.No. 10/2015 by the Judgment dated 04.12.2015 and enlarge the petitioner/Appellant on bail, pending disposal of the above said Criminal Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.S.DEENADHAYALAN, Advocate for the petitioner and of Mr.SUYAMBULINGA BHARATHI Govt. Advocate (Crl. Side) on behalf of the Respondents the court made the following order:-

Heard Mr.S.Deenadhayalan, learned counsel appearing for the petitioner and Mr.K.Suyambulinga Bharathi, learned Government Advocate (Crl. Side) appearing for the respondent.

2.This Petition is filed to suspend the sentence passed against the petitioner imposed by the learned Sessions Judge-Mahalir Fast Track Court, Karur in Spl. S.C.No.10 of 2015 by the Judgment dated 04.12.2015.

3.The case against petitioner is that from 16.09.2014 to 18.09.2014, the accused indulged in sexual harassment with the victims namely one Karuppasamy aged about 6 years and one Iswarya



aged about 3 ½ years and threatened them not to tell the same to others. The case under Section 5(1)(m) of the POSCO Act and under Section 506(i) of IPC were registered against the petitioner. The trial Court on completion of the trial, found the accused guilty under the aforesaid offences and sentenced him to undergo 10 years Rigorous Imprisonment and to pay Rs.1,000/- (Rupees One Thousand) in default to undergo three months simple imprisonment under Section 5(1)(m) of the POSCO Act (2 counts) and sentenced him to undergo one year simple imprisonment and to pay Rs.500/- (Rupees Five Hundred only) in default to undergo one month simple imprisonment under Section 506(i) of IPC.

4. On the side of the petitioner, it is stated that the complainant is the parents of the victim. The accused is aged about 26 years and he is an addict. He used to scold the resident of the street and due to that enmity, false case has been foisted against him. It is further stated that the occurrence is said to have been taken place in the house of one Kathayee and it is stated that Kathayee is dead long back and the house is kept open but P.W.19 has deposed that the house was under lock and key. It is further stated that for three consecutive days, the petitioner is alleged to have misbehaved with the children but no complaint was given on the first occasion. P.W.12 Doctor has deposed that there is no physical injuries on the body of the victims. It is further stated that out of the two witnesses examined on the defence side. The Head Master has deposed that P.W.15, the victim namely Karupasamy was present on those days in the School. It is further stated that there are sufficient grounds for arguments in the main appeal and prayed for suspension of sentence imposed on the petitioner.

5. On the side of the respondent, it is stated that the prosecution has examined 19 witnesses and marked 17 documents and three material objects and there are two victims in this case. The offence is serious in nature. P.W.15 has given statement before the learned Judicial Magistrate and the evidence of P.W.15 is corroborated by the evidence of P.W.10, learned Judicial Magistrate. The evidence of P.Ws.1 and 2 corroborated the evidence of P.W.15 and P.W.3 who is the independent witness has deposed that he saw the accused with the two children near the house of Kathayee and the prosecution has clearly proved the case and the trial Court has come to the right conclusion in convicting the accused and objected to grant suspension of sentence to the petitioner. If the petitioner was granted suspension of sentence, he may indulge in similar offence and he may be a threat to the children in that locality.

6. Records perused. The offence is abusing two children aged about 6 and 3 ½ years old respectively. The fact that the petitioner is an addict, and he used to scold the neighbouring people in filthy language is admitted by the petitioner. But motive is a double edged weapon. Whether there are sufficient reasons in favour of the petitioner can be decided only after hearing the argument in the main appeal. The petitioner has admitted that he is the neighbour of



the victims. In such circumstances, this Court deems it fit not to suspend the sentence imposed on the petitioner. This petition is dismissed.

sd/-
19/07/2018

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

TO

- 1 THE SESSIONS JUDGE,
MAHALIR FAST TRACK COURT,
KARUR
- 2 THE INSPECTOR OF POLICE
PASUPATHIPALAYAM POLICE STATION,
KARUR DISTRICT .
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPPALLI
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

MRN
JAM/25/07/2018/JC /SAR 4/ 3P-5C

ORDER
IN
CRL MP (MD) No.4006 of 2018
IN
CRL A (MD) No.96 of 2016
Date :19/07/2018