



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

Friday, the Sixteenth day of November Two Thousand Eighteen
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

WEB COPY

CRL MP(MD) No.6337 of 2018

IN

CRL A(MD) No.358 of 2018

RAJESH

... PETITIONER/ APPELLANT/
ACCUSED NO.1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KUZHITHURAI,
KANYAKUMARI DISTRICT.
CRIME NO.10/2015

... RESPONDENT/ RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order suspend the sentence imposed on the petitioner by the Judgement dated 11/07/2018 in Special S.C.No.1/2016 on the file of the Court of Sessions Fast Tack Mahila Court (Camp Court at Kuzhithurai) Kanyakumari District dated and enlarge the petitioner on bail pending disposal of the above Crl.A

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.SASIKUMAR, Advocate for M/S.B.TAMIL NIDHI, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

The petitioner in Crl.M.P.[MD]No. 6337 of 2018 is arrayed as the accused No.1 in Special. S.C.No.1 of 2016, on the file of the Court Fast Track Mahila Court (Camp Court at Kuzhithurai) Kanyakumari District and under Judgment dated 11.07.2018, A1 has been found guilty and convicted for the offence under Sections 5(n), 6 of Protection of Children from Sexual Offences Act and Section 506 (i) of I.P.C., and sentenced to undergo imprisonment 10-years and to pay a fine of Rs.10,000/-(Rupees Ten Thousand Only) in default to undergo Rigorous Imprisonment for 6-months for the offence under sections 5(n) & 6 of POCSO Act and to undergo Rigorous imprisonment for 6-months for the offence under section 506(i) of I.P.C., and both the sentences were ordered to run concurrently and further the Trial Court recommended the State Government to pay compensation arrived at by the District Legal Service Authority, Kanyakumari at Nagercoil to the victim girl of Rs.10,000/-(Rupees Ten Thousand



Only). Pending disposal of the Criminal Appeal, the petitioner has come forward to file the present Miscellaneous Petition seeking suspension of sentence.

2. The learned Counsel appearing for the petitioner would submit that the Trial Court had erroneously held that the prosecution has proved the case beyond reasonable doubt. He would further submit that the Trial Court failed to taken into consideration the delay of three days in registering the case and that the medical evidence has not supported the case of the prosecution. He would also submit that there are several infirmities in the case of the prosecution and contradictions in the evidence. He would further submit that there are other valid grounds on appeal. He would further submit that the petitioner and the victim are relatives belonging to the Scheduled Tribe community and that a case of love affairs and consensual relationship has been projected as a case of rape due to dispute between the families and the petitioner has been falsely implicated.

3. The learned Additional Public Prosecutor would submit that the girl was 15-years at the time of alleged occurrence and the boy was 18-years and as stated earlier there was consensual relationship and that they are relatives. The learned learned Additional Public Prosecutor would vehemently oppose grant of suspension of sentence.

4. Taken into consideration the submissions made by the learned Counsels and the facts, this Court is inclined to suspend the substantive sentence of imprisonment alone.

5. Accordingly, the present Miscellaneous Petitions is allowed and the substantive sentences of imprisonment alone is suspended in respect of the petitioner and that the petitioner is directed to be enlarged on bail on condition that he shall execute a separate bond for a sum of Rs.10,000/- [Rupees ten thousand only] with two sureties for a like sum to the satisfaction of the Court of Sessions Fast Track Mahila Court (Camp Court Kuzhithurai), Kanyakumari District and on further condition that the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m. pending appeal. This Court imposes a further condition that the petitioner shall not enter the jurisdictional police limits until further orders from this Court.

sd/-
16/11/2018

/ TRUE COPY /



TO

1. THE JUDGE,
SESSIONS FAST TRACK MAHILA COURT
(CAMP COURT AT KUZHITHURAI),
KANYAKUMARI DISTRICT.
2. THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KUZHITHURAI, KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. C.C. to M/S.B.TAMIL NIDHI Advocate SR.No.21688

ORDER

IN

CRL MP (MD) No.6337 of 2018

IN

CRL A (MD) No.358 of 2018

Date :16/11/2018

MS/VR-MMS/SAR-4/23.11.2018/3P.6C