

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Ninth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice V. PARTHIBAN

CRIMINAL MISCELLANEOUS PETITION No.273 of 2019

IN

CRL.A.NO.10 OF 2019

SANKAR

[PETITIONER / APPELLANT]

Vs

STATE OF TAMIL NADU REP.BY
INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PANRUTI, CUDDALORE DISTRICT.
CR.NO.4/2018

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Criminal Revision Case No. on the file of the High Court, the High Court will be pleased to suspend the sentence imposed on the petitioner in Spl.S.C.No.27 of 2018 dated 11.12.2018 on the file of the Mahila Court, Cuddalore and release the petitioner on bail pending disposed of the CRL.A.NO.10 OF 2019 [IN CRL.MP.NO.273 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.10 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.AMARNATH R.N., 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.27 of 2018, on the file of the Mahila Court, Cuddalore. By judgment dated 11.12.2018, the trial Court has convicted the appellant for offence under Section 6 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for brevity) and sentenced to undergo Rigorous Imprisonment for 20 years and to pay a fine of Rs.2,00,000/-, in default, sentenced to undergo Simple Imprisonment for five years. Hence, the petitioner seeks suspension of sentence.

2.The learned counsel for the petitioner/appellant submitted that the petitioner has not committed any offence and he has been falsely implicated in this case. He would further submit that no complaint has been made either by the wife of the petitioner or the alleged victim girl and in fact, the so called victim girl has supported the petitioner and therefore, the entire case as projected

by the prosecution is not correct. Therefore, the learned counsel would pray for suspending the sentence and enlarging the petitioner on bail.

3.The learned Government Advocate would submit that there are clinching materials in support of the prosecution case and on the basis of the said materials, the lower Court has passed the impugned order, imposing twenty years Rigorous Imprisonment on the petitioner/accused. She would further submit that the petitioner has been charged with for his committing a grave offence under the provisions of of the POCSO Act, apart from the offence under the provisions of Prohibition of Child Marriage Act, 2006, as in this case, the petitioner/accused had married a 14 year old girl. The petitioner/accused spoiled the life of his first wife and two female children born through her and he has also exploited a 14 year old child. She would further submit that the consent of the child for prosecuting her abuser is not at all necessary. Finally, it is the submission of the learned Government Advocate that without the aid of Section 29 of the POCSO Act, wherein presumption is in favour of the prosecution, it is proved that the accused had committed aggravated penetrative sexual assaults on the child and therefore, the petitioner cannot be shown any indulgence. Accordingly, she prays for dismissal of the petition.

4.On going through the entire papers and taking into consideration the submissions made by the learned Government Advocate and the nature of heinous crime committed by the petitioner/accused, this Court is not inclined to suspend the sentence. Accordingly, this petition is dismissed.

-sd/-
09/01/2019

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

सत्यमेव जयते
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 THE MAHILA COURT,
CUDDALORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PANRUTI, CUDDALORE DISTRICT.

C.C. to M/S.AMARNATH R.N. Advocate on payment of necessary
charges

Order

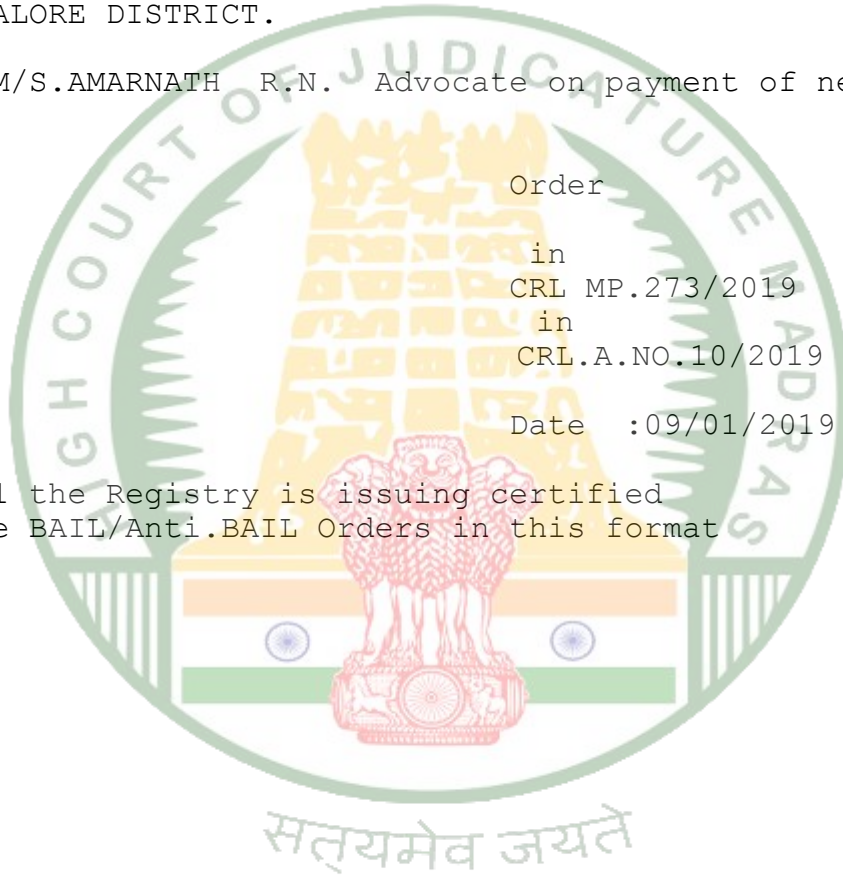
in
CRL MP.273/2019

in
CRL.A.NO.10/2019

Date :09/01/2019

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MK:18/01/2019



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