

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of November Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.6552 of 2019

IN CRL.A.NO.56 of 2019

MANIKANDAN

[PETITIONER]

Vs

STATE REP BY
INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
VIRUDHACHALAM.
CR.NO.23 OF 2016.

[RESPONDENT]

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to

(i) To suspend the execution of the sentence passed in S.C.No.19 of 2017 on 23.05.2018 on the file of the Learned Sessions Judge, Mahila Court, Cuddalore District enlarged on bail be suspended pending disposal of the above Crl.Appeal No.56/2019.

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

- 1.This Criminal Miscellaneous Petition has been filed by the Petitioner/Accused, seeking suspension of sentence of imprisonment, imposed by the judgement, dated, 23.05.2018, made in S.C.No.19/2017, by the Sessions Judge, Cuddalore for Cases under POCSO Act/Children's Court, Chennai, pending disposal of the Criminal Appeal.
- 2.This court heard the learned counsel on either side and also perused the materials placed on record.
- 3.In and by the impugned judgement, the Petitioner/ accused was convicted and sentenced for the offence under Section 6 of the Protection of Children from Sexual Offences Act 2012, to undergo ten years Rigorous Imprisonment and to pay a fine of Rs.10,000/- and in default, to undergo further period of one year rigorous

Imprisonment and further for offence under Section 506 (ii) of IPC and sentenced to undergo Rigorous Imprisonment for one year and also imposed with fine of Rs.1,000/- in default to undergo Simple Imprisonment for three months .

4. According to the learned counsel for the Petitioner/accused, the Trial court had failed to take into consideration that contradiction in the evidence of victim P.W.2, before the Court and the statement recorded under Section 164 of Cr.P.C. from her. The Trial Court failed to appreciate the contradictions elicited by the defence to prove that the evidence of the victim and her relatives do not inspire credence. The Trial Court also failed to take into consideration the delay in giving the complaint which has not been explained by the prosecution. He would submit that there are arguable points available in the Criminal Appeal, which is not likely to be taken for final hearing in the near future and the Petitioner/ accused has got a fair chance of succeeding in the Criminal Appeal and hence, the substantive sentence imposed against the Petitioner/Accused may be suspended.
5. The learned Additional Public Prosecutor has raised objections for suspending the sentence and has filed counter before this Court.
6. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentence of imprisonment alone can be suspended on certain conditions. Accordingly, till the disposal of the Criminal Appeal, the substantive sentence of imprisonment alone is suspended and the Petitioner/ accused is ordered to be enlarged on bail, on the following conditions:-
 - a) The Petitioner/Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Sessions Judge, Cuddalore.
 - b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of their Aadhaar Cards or Bank Pass Books to ensure their identities.

The Petitioner/Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and further, the petitioner shall not enter the scene village/M.Agaram/Kantham Post/ Jurisdictional limits of the respondent Police Station until further orders.

-sd/-
27/11/2019

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

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High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
CUDDALORE.

2 THE SESSIONS JUDGE,
MAHILA COURT, CUDDALORE DISTRICT.

3 INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
VIRUDHACHALAM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 C.C. to M/S.S.SARAVANAKUMAR Advocate on payment of necessary
charges SR.NO.24444

Order

in

CRL MP.6552/2019

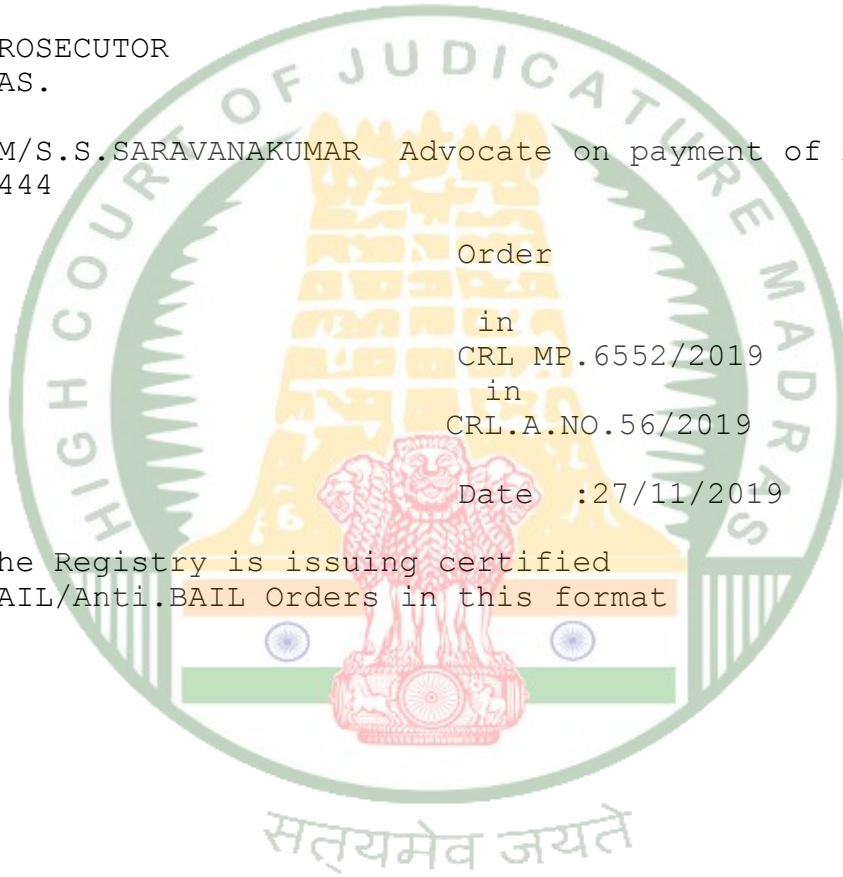
in

CRL.A.NO.56/2019

Date :27/11/2019

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TA-03/12/2019



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