

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of November Two Thousand Twenty

PRESENT

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRIMINAL MISCELLANEOUS PETITION NO.11530 OF 2019
IN CRL.A.NO.519 OF 2019

ILAYARAJA

[PETITIONER / APPELLANT]

Vs

STATE REP.BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
OOTY RURAL.
CR.NO.1 OF 2017.

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in CRL.A.NO.519 OF 2019 on the file of the High Court, the High Court will be pleased to suspend the sentence imposed in Special C.C.No.13 of 2017 on the file of the court of Sessions Judge of Magalir Neethimandram (FTMC), Udthagamandalam at Nilgiris dated 25.07.2019 and enlarge the petitioner on bail pending disposal of the above CRL.A.NO.519 OF 2019 [IN CRL.MP.NO.11530 OF 2019]

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in CRL.A.NO.519 OF 2019 on the file of the High Court and upon hearing the arguments of M/S.S.DORAISWAMY, Advocate for the petitioner and of PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

Mr.Duraisamy, learned Senior Advocate has filed this Suspension of Sentence petition submitting that the petitioner has been convicted in Special.C.C.No.13 of 2017 by judgment dated 25.07.2019 passed by the Sessions Judge of Magalir Neethimandram, (FTMC), Udthagamandalam, Nilgiris for offence under Section 5 (m) r/w 6 of POCSO Act, and sentenced to undergo 10 years R.I. and to pay fine of Rs.3,000/-, in default, to undergo 3 months S.I.

2. The learned counsel for the petitioner submitted that right from the stage of investigation, for the past 3 years, the petitioner is in confinement. He further submitted that in this case, P.W.1 is the father, P.W.2 is the mother of the victim, and the victim was two years old. Both P.W.1 and P.W.2 used to go for work in the morning and return back in evening. During that time, the baby would be handed over to the mother of P.W.1 who was taking care of the baby. The petitioner was residing in the

opposite house along with one Silambarasan and Anbarasan. On the day of occurrence, the petitioner had gone to work and he was at home and at about 11.00 a.m., he came and took the baby on the pretext that he would buy some chocolates for her. After 2 hours, a cry of the baby was heard, the grand mother had rushed to the place and found that the petitioner was standing naked and semen all over the baby. On seeing the grand mother, the petitioner ran away. Later the baby was taken home and the private part of the baby was found to be reddish. On return of P.W.1 and P.W.2 from the work, police complaint was lodged and the baby was taken to the Doctor - P.W.14, who had examined and given the report Ex.P.9. He had clearly stated that there is no external injury except for reddishness in the private part and this reddishness could have occurred even due to infection. There is no eye-witness to the occurrence. Further, the specific case of the petitioner is that P.W.2 - mother of the victim, was having illicit relationship with one Silambarasan which was witnessed by the petitioner. Fearing that the petitioner would expose the relationship, the petitioner had been falsely implicated in this case and he has got fair chances in the appeal. The medical evidence does not corroborate the evidence of other witnesses. The medical witness does not implicate the petitioner and there is no eye witness to the occurrence and there are fair chances in the appeal and he is in confinement for 3 years.

3. At this stage, when this Court expressed that it is not inclined to consider the bail application, the petitioner sought permission to withdraw the same, with a plea that the typedset of papers to be made ready and the appeal itself can be taken up, since the petitioner is in confinement from the year 2017 and sought permission to withdraw the petition.

4. Accordingly, this Criminal Miscellaneous Petition is dismissed as withdrawn. Registry is directed to make ready the typedset of papers and post the matter for final hearing.

सत्यमेव जयते
-sd/-
06/11/2020

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

WEB COPY
TRUE COPY

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

TO

1 THE SESSIONS JUDGE OF MAGALIR NEETHIMANDRAM, (FTMC),
UDHAGAMANDALAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
OOTY RURAL.

COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
HIGH COURT, MADRAS.

+1C.C. to M/S.S.DORAISWAMY Advocate on payment of necessary
charges SR NO.7363

Order

in
CRL.MP.NO.11530/2019
in
CRL.A.NO.519/2019

Date :06/11/2020

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format

MK:11/11/2020

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