

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Third day of October Two Thousand Nineteen

PRESENT

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

CRIMINAL MISCELLANEOUS PETITION No.13986 of 2019

IN CRL A.658/2019

MANIMUTHU

[PETITIONER]

Vs

STATE REPRESENTED BY
THE INSPECTOR OF POLICE,
W-26, ALL WOMEN POLICE STATION,
ASHOK NAGAR, CHENNAI-83.

[- 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 sentence imposed in S.C.No.249/2018 on the file of the Sessions Judge, Mahila Court, Chennai, pending Crl.A.No.658 of 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.G.ASHOK KUMAR, 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 judgment, dated, 06.09.2019, made in S.C.No.249/2018, by the Sessions Judge, Mahila Court/Special Court 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 12 of the Protection of Children from Sexual Offences Act 2012, to undergo two years Simple Imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo six months Simple Imprisonment.
- 4.According to the learned counsel for the Petitioner/accused, the trial court had failed to take into consideration for the

contradiction in the statement of the victim P.W.1, the evidence before the Court is totally contradiction to the statement recorded in Section 164 of Cr.P.C., and the Trial Court failed to appreciate the contradictions elicited by the petitioner to prove that the evidence of the victim does not inspire credence. The Trial Court also failed to take into consideration the delay of 5 days giving the complaint which has not been explained by the prosecution. He would submit

that the Trial Court has suspended the sentence till 20.09.2019 and 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.

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, Mahila Court, Chennai.
- 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 if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.P.C. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.

-sd/-

03/10/2019

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

TRUE COPY

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

TO

1 THE SESSIONS JUDGE, MAHILA COURT/SPECIAL
COURT FOR CASES UNDER POCSO ACT/CHILDRENS
COURT, CHENNAI,

2 THE SESSIONS JUDGE,
MAHILA COURT, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-26, ALL WOMEN POLICE STATION,
ASHOK NAGAR, CHENNAI-83.

+1 C.C. to M/S.G.ASHOK KUMAR Advocate on payment of necessary
charges SR.NO.20608

Order

in

CRL MP.13986/2019

in

CRL A.658/2019

Date :03/10/2019

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