



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

Monday, the First day of July Two Thousand Nineteen

PRESENT

**The Hon`ble Mrs.Justice T.KRISHNAVALLI**

CRL MP (MD) No.3659 of 2019

IN

CRL A (MD) No.419 of 2018

VIJAYAKUMAR

... PETITIONER/ APPELLANT

Vs

STATE REP.BY  
THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
COLACHEL, KANYAKUMARI DISTRICT.  
(CRIME NO.43/2015)

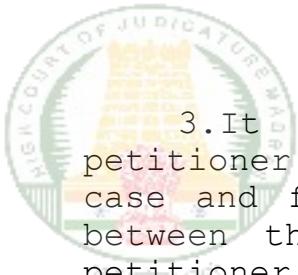
... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed on the petitioner by the judgment dated 07.05.2018 passed in Spl.S.C.No.6 of 2016, on the file of the District and Sessions Court (Fast Track Mahila Court) Kanyakumari District at Nagercoil 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 M/S.K.RAJESHWARAN, Advocate for the petitioner and of Mr.R.ANANDHARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the learned District and Sessions Judge, (Fast Track Mahila Court), Kanyakumari District @ Nagercoil, in Spl. S.C.No.6 of 2016 dated 07.05.2018 and enlarge the petitioner pending disposal of the criminal appeal.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the District and Sessions Judge (Fast Track Mahila Court), Kanyakumari District @ Nagercoil convicting him under Section 3(b) of POCSO Act and sentenced him to undergo RI for 7 years and pay a fine of Rs.10,000/-, in default to undergo RI for 6 months and for the offence under Section 5(m) of POCSO Act sentenced him to undergo RI for 10 years and to pay a fine of RS.10,000/-, in default to undergo RI for one year and directed the sentences to run concurrently.



3.It is also submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and that the petitioner is in jail since 07.05.2018. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the appeal.

4.It is submitted by the learned Government Advocate (Criminal side) appearing for the respondent/State that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and prays for dismissal of this petition.

5.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

6.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate, Eraniel, Kanyakumari District and on further condition that the petitioner shall appear before the said court daily at 10.00 am and 5.00 pm until further orders.

sd/-

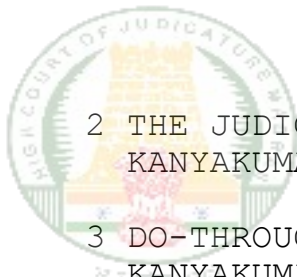
01/07/2019

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Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

TO

1 THE DISTRICT AND SESSIONS JUDGE,  
(FAST TRACK MAHILA COURT),  
KANAKUMARI DISTRICT AT NAGERCOIL.



2 THE JUDICIAL MAGISTRATE, ERANIEL,  
KANYAKUMARI DISTRICT.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
KANYAKUMARI DISTRICT AT NAGERCOIL.

4 THE SUPERINTENDENT, CENTRAL PRISON,  
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

5 THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
COLACHEL, KANYAKUMARI DISTRICT.

6 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1. C.C. to M/S.K.RAJESHWARAN Advocate SR.No.10753

ORDER  
IN  
CRL MP (MD) No.3659 of 2019  
IN  
CRL A (MD) No.419 of 2018  
Date :01/07/2019

**MS/PN/SAR-4/02.07.2019/3P.8C**