



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

Friday, the Nineteenth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.2894 of 2019

IN

CRL A (MD) No.127 of 2019

MADHAVAN

... PETITIONER/APELLANT

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PAVANASAM,
THAJAVUR DISTRICT.
CRIMENO.4 OF 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 passed in S.S.C.No.12/2015 dated 13/07/2017 on the file of the Learned Sessions Judge, Mahila Court (Fast Track Mahila Court), Thanjavur for offence Under section 4 of POCSO Act 2012 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.A.JAYARAMACHANDRAN, Advocate for the petitioner and of MR.A.P.G.OHM CHAIRMA PRABHU, Government Advocate(Crl.Side)on behalf of the Respondent, the court made the following order:-

This Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner by the learned Sessions Judge, (Fast Track Mahila Court), Thanjavur, in Spl.S.C.No.12 of 2015, dated 18.07.2017 pending disposal of the criminal appeal.

2.The learned counsel for the petitioner submitted that petitioner was convicted by the trial court for the offence under Section 4 of POCSO Act 2012 and sentenced him to undergo Rigorous Imprisonment for 7 years with a fine of Rs.1,000/-, in default to undergo 6 months simple imprisonment.

3.The learned counsel for the petitioner submitted that PW1, the father of the victim and author of the complaint (Ex.P1) has mentioned that the victim was mentally retarded and speech impaired, but to the contra in his evidence he has averred that the victim was partly disabled and PW1 deposed that he did not witness the occurrence.



4.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 13.06.2017. In view of the above circumstances, the petitioner seeks the relief of suspension of sentence till the disposal of the appeal.

5.It is submitted by the learned Government Advocate (Criminal side) 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.

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

7.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 the petitioner is in jail since 13.07.2017 and 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.

8.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 Sessions Judge, Mahila Court (Fast Track Mahila Court), Thanjavur and on further condition that the petitioner shall appear before the said court daily twice I.e., 10.30 am and 5.00 pm, pending appeal.

sd/-
19/07/2019

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

TO

1.THE SESSIONS JUDGE, MAHILA COURT,
<https://hcservices.courts.gov.in/hcservices/>
(FAST TRACK MAHILA COURT), THANJAVUR



2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PAVANASAM,
THAJAVUR DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

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

+1. C.C. to M/S.A.JAYARAMACHANDRAN Advocate SR.No.12085

ORDER

IN

CRL MP (MD) No.2894 of 2019

IN

CRL A (MD) No.127 of 2019

Date :19/07/2019

ER

PK/VR/SAR-3/24.07.2019 : 3P/6C