



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

Thursday, the Eighteenth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

CRL MP (MD) No.5599 of 2019
IN
CRL A (MD) No.274 of 2019

JEYABALAN,

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KARUR, KARUR DISTRICT.

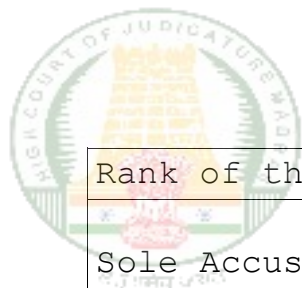
... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the execution of sentence dated 20.12.2018 made in Spl.SC.No.15 of 2018 against the petitioner passed by the Honorable Additional District and Sessions Judge (Mahila Court), Karur and enlarge the petitioner on bail pending disposal of the above criminal appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.LAKSHMANAN, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of this Court was made by **M.SATHYANARAYANAN, J**)

The petitioner/appellant is the sole accused in Spl.S.C.No.15 of 2018, on the file of Additional District and Sessions Judge (Mahila Court), Karur and vide impugned judgment dated 20.12.2018, he was convicted and sentenced as follows:



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Rank of the Accused	Conviction u/s	Sentence awarded
Sole Accused	Section 5(1) (m) (n) of the Protection of Children from Sexual Offences Act, 2012.	To undergo imprisonment for a period of life imprisonment (till his death) and to pay a fine of Rs.1,000/-, in default to undergo simple imprisonment for a period of one month.
	Section 6 r/w 9 (1) (m) (n) of the Protection of Children from Sexual Offences Act, 2012.	To undergo imprisonment for a period of life imprisonment (till his death) and to pay a fine of Rs.1,000/-, in default, to undergo simple imprisonment for a period of one month.

The sentences of imprisonment were ordered to be run concurrently. The trial Court has also granted set-off under Section- 428 Cr.P.C. and challenging the legality of the conviction and sentence, the petitioner/Accused has filed the present appeal and pending the appeal, he had filed this petition seeking suspension of the substantive sentences of imprisonment.

2. The learned Counsel appearing for the petitioner/appellant/accused has drawn the attention of this Court to the materials placed and would submit that admittedly under Ex.D.2 - the complaint given by P.W.2 - estranged wife of the petitioner/appellant/accused, to the District Welfare Officer, Karur, would disclose that under the complaint, as to the sexual exploitation of her daughter, viz., P.W.2 have been stated and admittedly, prior to the lodging of the complaint under Ex.P.1, the petitioner/appellant/accused as well as P.W.1 were living separately for 1 ½ years and that apart, the defence witness - P.W.4 is none other than the mother of P.W.1, who lodged a complaint before the police authority to take the custody of her daughter as well as her granddaughter from one Vijayaraghavan, who is said to be a paramour of P.W.1 and in the light of the facts and circumstances, the case has been foisted by P.W.1, by using the services of her minor daughter, knowing pretty well about the grave consequences that inure upon the future of the minor daughter and hence, prays for suspension of the substantive sentences of imprisonment.

2. Per contra, Mr.S.Chandrasekar, learned Additional Public Prosecutor appearing for the State would submit that the points urged by the learned Counsel appearing for the petitioner/appellant/accused can be appreciated and adjudicated only at the time of final disposal of the appeal and hence, he prays for dismissal of the petition.



3. In response to the same, the learned Counsel appearing for the petitioner/appellant/accused would submit that the petitioner is the only person to take care of his aged father and widowed sister-in-law and her two children and since there is a bright chance of success in this Criminal Appeal, he prays for suspension of the substantive sentences of imprisonment.

4. This Court has carefully considered the rival submission and perused the materials placed before this Court.

5. P.W.2 is the victim girl and she has spoken about the alleged sexual abuse of his father viz., the petitioner/appellant/accused and Exs.P.6 and P.7 supported by the testimony of P.W.11, would *prima facie* disclose that P.W.2 had been subjected to sexual assault. As rightly pointed out by the learned Additional Public Prosecutor, the points urged by the learned Counsel appearing for the petitioner/appellant/accused can be considered and appreciated only at the time of final disposal of the Criminal Appeal. Therefore, this Criminal Miscellaneous Petition is dismissed. However, taking into consideration the plea made by the learned Counsel appearing for the petitioner/appellant/accused, the Registry is directed to prepare the typed set of papers and list this Criminal Appeal for final disposal on 14.08.2019.

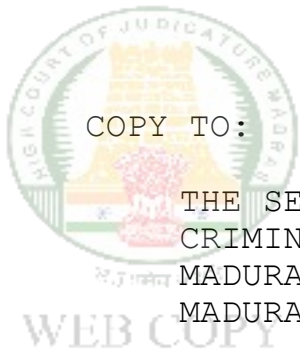
sd/-
18/07/2019

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

TO

1. THE ADDITIONAL DISTRICT AND SESSIONS JUDGE,
MAHILA COURT , KARUR DISTRICT.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KARUR DISTRICT.
3. THE SUPERINTENDENT ,
CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



COPY TO:

THE SECTION OFFICER,
CRIMINAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL MP (MD) No.5599 of 2019

IN

CRL A (MD) No.274 of 2019

Date :18/07/2019

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