



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

Wednesday, the Sixth day of March Two Thousand Nineteen

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP (MD) No.10614 of 2018

IN

CRL A (MD) No.476 of 2017

R.SANKAR

... PETITIONER/ PETITIONER/
APPELLANT

Vs

STATE REP.BY
THE DEPUTY SUPERINTENDENT OF POLICE,
KARUR TOWN SUB DIVISION,
KARUR POLICE STATION,
KARUR DISTRICT.

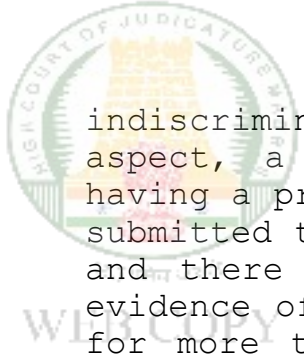
... RESPONDENT/ RESPONDENT/
COMPLAINANT

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 by the Judgment dated 20.06.2016 passed in S.C.NO. 20 of 2016 on the file of the learned Mahalir Fast Court (Sessions Judge Mahalir Court), Karur and enlarge the petitioner on bail, pending disposal of the Criminal Appeal

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.E.SOMASUNDARAM, Advocate for the petitioner and of Mr.A.ROBINSON, Government Advocate(Crl.Side) on behalf of the Respondent, the court made the following order:-

The learned counsel for the petitioner/sole accused submitted that the petitioner has been convicted by the learned Sessions Judge, Mahalir Court, Karur for the alleged offences under Section 5 (m) r/w Section 6 of POCSO Act 2012 in S.C.No.20 of 2016 and sentenced him to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs.1,000/-, in default to undergo Simple Imprisonment for a further period of one year.

2.The learned counsel appearing for the petitioner submitted that the alleged occurrence took place on 06.10.2015 at 5.00 pm, but the complaint was lodged on 08.10.2015 and the delay in preferring the complaint is not explained and the Doctor, who examined the victim, stated that no penetration is held and there is no injury or contusion or bruises and that the accused was attacked



indiscriminately by PW3 and caused injury due to enmity and on that aspect, a false complaint was given and that the petitioner is having a prima facie case of acquittal in this appeal. It is further submitted that there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and the petitioner is in jail for more than four years. The learned counsel for the petitioner also submitted the order of this court made in **Crl.MP(MD)No.9749 of 2017 in Crl.A(MD)No.424 of 2017 (Vellaichamy Vs. State), dated 26.09.2018.**

3.It is submitted by the learned Government Advocate (Criminal side) that the victim girl in this case is aged about 7 years old and on the date of occurrence, the trial court has rightly convicted the petitioner and there are enough materials available on record against the petitioner and there is no infirmity in the prosecution case and prays for dismissal of this petition.

4.This court has carefully considered the rival contentions put forward by their side and also perused the materials available on record.

5.Considering the facts and circumstances of the case and the submission of both sides and considering the fact there are arguable points involved in this appeal and the petitioner has been in incarceration for more than four years and he has to take care of his family and also in similar circumstances, this court has passed an order in Crl.MP(MD)No.9749 of 2017 in Crl.A(MD)No.424 of 2017, dated 26.09.2018, this court deem it appropriate to suspend the substantive portion of sentence imposed on the petitioner.

6.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended in respect of the petitioner and he 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, Fast Track Mahilar Court, Karur and on further condition that the petitioner shall appear before the said court daily twice I.e., at 10.30 am and 4.00 pm pending appeal.

sd/-
06/03/2019

/ TRUE COPY /

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



TO

1. THE SESSIONS JUDGE,
FAST TRACK MAHALIR COURT, KARUR.
 2. THE SUPERINTENDENT, CENTRAL JAIL,
TRICHY.
 3. THE DEPUTY SUPERINTENDENT OF POLICE,
KARUR TOWN SUB DIVISION, KARUR POLICE STATION,
KARUR DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.E.SOMASUNDARAM Advocate SR.No.4393

ORDER
IN
CRL MP (MD) No.10614 of 2018
IN
CRL A (MD) No.476 of 2017
Date :06/03/2019

MS/JC/SAR-1/06.03.2019/3P.6C