



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

Monday, the Twenty Eighth day of September Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2927 of 2020

IN

CRL A(MD) No.543 of 2019

MUTHUSAMY

... PETITIONER/APELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
MAYANUR POLICE STATION,
MAYANUR, KARUR DISTRICT.
CRIME NO. 52 OF 2018.

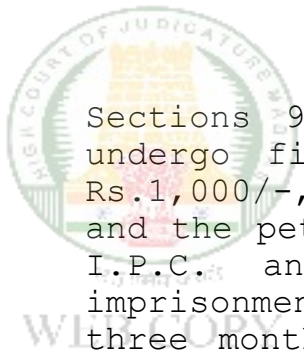
... RESPONDENT/RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the conviction and sentence imposed against the petitioner in Special S.C.No.24 of 2018 on the file of the Additional Sessions Court, Karur, dated 06/02/2019 and enlarge the petitioner on bail in 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.R.MATHIYALAGAN, Advocate for the petitioner and of MR.K.DINESH BABU, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the conviction and sentence imposed against the petitioner in Special S.C.No.24 of 2018 on the file of the Additional Sessions Judge, Karur, dated 06.02.2019 and enlarge the petitioner on bail in pending disposal of the Criminal Appeal.

2. The case against the petitioner is that on 18.03.2018, the petitioner, enticed a female child, took her to a forest place and misbehaved with her. A case was registered against the petitioner in Crime No.52 of 2018 by the Mayanur Police and a charge sheet was filed and the same was taken on file as Spl.S.C.No.24 of 2018 on the file of the Additional Sessions Judge, Karur. After trial, the petitioner was convicted under Sections 9 (m) and 10 of POCSO Act and 376(1)(a) of I.P.C. The petitioner was convicted under



Sections 9 (m) and 10 of POCSO Act, 2012 and was sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment, and the petitioner was convicted under Section 261 r/w Section 363 I.P.C. and was sentenced to undergo seven years rigorous imprisonment and to pay a fine of Rs.1,000/-, in default, to undergo three months simple imprisonment and under Section 357(A) Cr.P.C. and Section 33(8) of POCSO Act, the petitioner was directed to pay compensation of Rs. 25,000/- (Rupees Twenty Five Thousand only), to the victim child/ P.W.2, by its judgment, dated 06.02.2019.

3. As against the said conviction and sentence, the petitioner has preferred an Appeal in Crl.A.(MD)No.543 of 2019. Along with the appeal, he has filed the present application for suspension of sentence pending disposal of the said appeal.

4. On the side of the petitioner, it is stated that there is a land dispute, regarding the enjoyment of the poromboke land between the petitioner and the father of the victim child and hence, a false case was lodged against the petitioner. It is further stated that the petitioner has filed a copy of the receipt for deposit of the compensation amount and the petitioner is in judicial custody for the past 20 months and prayed the petitioner to be released on bail.

5. On the side of the prosecution, it is stated that the prosecution has examined 20 [P.W.1 to P.W.20] witnesses and marked 19 [Ex.P.1 to Ex.P.19] documents and 5 [M.O.1 to M.O.5] material objects. The age of the victim is only 5 years. The wound certificate of the victim child was marked as Ex.P.8 and her statement was also marked as Ex.P.5. The prosecution has proved the case beyond all reasonable doubts. Only after providing equal opportunity for the defence side, the trial Court has passed the conviction order. If the sentence is suspended, there is a change for the petitioner to escape from the clutches of law and prayed the petition to be dismissed.

6. Heard the learned counsel on either side and perused the materials available on record.

7. It is seen that the petitioner was in custody from 19.03.2018 to 26.05.2018 and again from 06.02.2018 to 10.12.2018. The date of judgment is 06.02.2019 and the petitioner is still in custody. Considering the facts and circumstances of the case and considering the submissions of the learned counsel for the petitioner that there are several infirmities in the prosecution case in respect of the petitioner and that there are arguable points involved in the appeal and also considering the period of incarceration undergone by the petitioner sofar, this Court is inclined to grant suspension of sentence till the disposal of the appeal and directing the petitioner to execute a bond for a sum of Rs.10,000/- (Rupees Ten



thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Additional Sessions Judge, Karur, and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression along with their signature in the surety bond and the learned Trial Judge may obtain a copy of their any valid identity proof to ensure their identity;

(ii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal.

8. Accordingly, Crl.M.P.(MD)No.2927 of 2020 is allowed.

sd/-
28/09/2020

/ TRUE COPY /

/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

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

ORDER
IN
CRL MP(MD) No.2927 of 2020
IN
CRL A(MD) No.543 of 2019
Date :28/09/2020

LS
JM/VR/SAR IV/29.09.2020/3P/5C

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