



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

Tuesday, the Eighteenth day of August Two Thousand Twenty

PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL MP (MD) No.2895 of 2020

IN

CRL A (MD) No.138 of 2019

R.RAJAGOPAL

... PETITIONER/APPELLANT/
SOLE ACCUSED

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MUSIRI, TRICHY DISTRICT.
(CR.NO.2/2017)

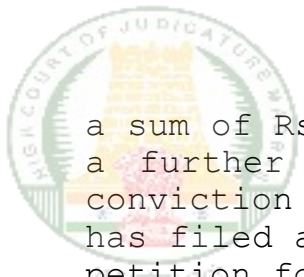
... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence passed in SC.No.24 of 2017 dt.2.3.2019 on the file of the Learned Mahila Court, Tiruchirappalli enlarge the petitioner/appellant/accused on bail pending disposal of the above appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.M.KARUNANITHI, 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 sentence imposed by the learned Judge, Mahila Court, Thiruchirappalli, in S.C.No.24 of 2017 dated 02.03.2019, till the disposal of the appeal.

2.The case against the petitioner is that the petitioner has committed sexual harassment to a minor girl and make her pregnant. The case in Crime No.2 of 2017 was registered under Section 5(j)(ii) of POCSO Act against the petitioner. The case was taken on file as S.C.No.24 of 2017. After trial, the Mahila Court, Trichy found the petitioner guilty under Sections 5(1) and 5(j)(ii) of POCSO Act and sentenced him under Section 5(1) of POCSO Act to undergo rigorous imprisonment for ten years and to pay a sum of Rs.2,000/- (Rupees Two Thousand only) in default to undergo a further period of one year rigorous imprisonment and sentenced him Section 5(j)(ii) of POCSO Act to undergo rigorous imprisonment for ten years and to pay



a sum of Rs.2,000/- (Rupees Two Thousand only) in default to undergo a further period of one year rigorous imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal and along with the appeal, he filed this petition for suspension of sentence till the disposal of the appeal.

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3.On the side of the petitioner, it is stated that the petitioner is in custody for the past 1 ½ years i.e. from 02.03.2019. It is stated that DNA test was not conducted. The prosecution has not proved that P.W.1 was not in a position to understand the consequences of the act. The victim girl has completed 10th standard and she was working. The trial Court failed to consider that the marriage arrangements were made and only child line went to the village and secured the victim girl. The trial Court failed to consider the inconsistent stand taken by the prosecution and the non examination of prosecution witnesses and it is stated that there are much more grounds for the petitioner to succeed in the appeal and he prayed for suspension of sentence till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the family of the victim girl arranged marriage for her on 06.02.2017. The child line took the victim girl and placed her at Government home on 15.10.2017. Only when the girl was sent to the hospital for excessive bleeding, she was diagnosis as four months pregnant and the pregnancy got terminated automatically. Subsequently P.W.1 preferred the complaint against the accused. The trial Court after considering all the materials and evidence, convicted the petitioner. Civil dispute or communal unrest are not proved by the defence. Ex.P14 is the statement recorded by the Judicial Officer under Section 164 of Cr.P.C. D.W.2 is the wife of the petitioner and her evidence cannot be taken into consideration. The prosecution has proved the case beyond all reasonable grounds. The petitioner himself is having two children of his own and he intentionally used the innocent girl and prayed the petition to be dismissed.

5.It is seen from the records that the accused is in custody for the past 1 ½ years. An opportunity for the petitioner to putforth his case is to be given. Hence, this Court is inclined to grant suspension of sentence till the disposal of the appeal on the following conditions:

(i) the petitioner is directed 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 Judge, Mahila Court, Thiruchirappalli District.

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



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

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sd/-
18/08/2020

/ TRUE COPY /

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

TO

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

ORDER
IN
CRL MP (MD) No.2895 of 2020
IN
CRL A (MD) No.138 of 2019
Date :18/08/2020

MRN
TE/JC/SAR-II : 20/08/2020 : 3P/5C