



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Tuesday, the Twenty Fifth day of August Two Thousand and Twenty

PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL MP(MD) No.4092 of 2020

IN

CRL A(MD) No.266 of 2020

K.CHOKKALINGAM

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
CR.NO.14 OF 2015

... RESPONDENT/COMPLAINANT

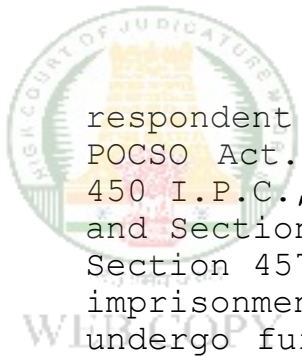
Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence and grant bail to the Appellant/Sole Accused against the judgment dated 31.01.2020 in Special S.C.No.12 of 2015 on the file of the Sessions Judge (Fast Track Mahila Court) Virudhunagar District, at Srivilliputhur in Crime No.14 of 2015.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.I.PINAYGASH, Advocate for the petitioner and of MR.K.DINESH BABU, Additional Public Prosecutor on behalf of the Respondent, while admitting the criminal appeal, the court made the following order:-

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

2. This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner / appellant passed by the learned Sessions Judge, (Fast Track Mahila Court), Virudhunagar District, vide judgment dated 31.01.2020, in S.C.No.12 of 2015.

3. The case against the petitioner is that on 13.7.2015 at about 11.00 p.m, the petitioner entered into the house of the victim girl and subjected to her sexual harassment. Hence, a case was registered against the petitioner in Crime No.14 of 2015, by the



respondent police, under Section 450 I.P.C and Section 7 r/w 8 of POCSO Act. The trial Court acquitted the petitioner under Section 450 I.P.C., but, convicted the petitioner under Section 457 of I.P.C and Section 7 r/w 8 of POCSO Act. The petitioner was convicted under Section 457 of I.P.C. and was sentenced to undergo 5 years Rigorous imprisonment and to pay a fine of Rs.10,000/-, in default, to undergo further one year simple imprisonment and under Section 7 r/w 8 of Protection of Children from Sexual Offences (POCSO) Act, the petitioner was sentenced to undergo 5 years Rigorous imprisonment and to pay a fine of Rs.50,000/-, in default, to undergo further one year simple imprisonment.

4. As against the said conviction and sentence, the petitioner has preferred an Appeal in Crl.A.(MD)No.266 of 2020. Along with the Appeal, he has filed the present application for suspension of sentence.

5. On the side of the petitioner, it is stated that there was a delay in lodging the complaint. The occurrence was alleged to have taken place on 13.07.2015, at about 11.00 p.m, but, the complaint was lodged before the respondent police on 14.07.2015 at about 02.00 p.m and the delay of 14.00 hours was not explained by the prosecution. It is stated that the evidence of P.W.1 to P.W.3 did not disclose the correct place of occurrence and the time of occurrence. The mahazar witness P.W.5 and neighbour P.W.4 turned hostile. The presumption under Section 29 of POCSO Act is only in favour of the petitioner and there are more arguable points involved in the appeal and there are so many discrepancies in the case of the prosecution and prayed that the sentence to be suspended.

6. On the side of the prosecution, it is stated that the prosecution examined 10 witnesses and marked 8 exhibits and only after careful consideration, the trial Court convicted the petitioner. It is further submitted that the statement of the victim was recorded under Section 164(5) of Cr.P.C. and the same was marked as Ex.P6 and that the prosecution has proved the case beyond all reasonable doubts and prayed for dismissal of the petition.

7. It is seen that the petitioner is in judicial custody for the past eight months, there is no previous antecedents reported against the petitioner and 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, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Virudhunagar, and on further condition that:

<https://hcservices.ecourts.gov.in/hcservices/> 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;

WEB COPY

(ii) the petitioner shall appear before the said Court daily at 10.30 a.m until further orders.

sd/-
25/08/2020

/ 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 SESSIONS JUDGE (FAST TRACK MAHILA COURT)
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
2. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN
CRL MP(MD) No.4092 of 2020 IN
CRL A(MD) No.266 of 2020
Date :25/08/2020

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SRS/ PN/ SAR-III/ 25.08.2020/ 3P/5C

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