



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

Friday, the Ninth day of October Two Thousand Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4831 of 2020
IN
CRL A(MD) No.295 of 2020

M.KARTHICK

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
JAYAMANGALAM POLICE STATION,
THENI DISTRICT.
CRIME No.275/2016

... RESPONDENT/COMPLAINANT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence of Imprisonment imposed by the learned Fast Track Mahila Court, Theni District in Special S.C.No.28 of 2017 by the Judgment dated 26.11.2019, pending disposal of the above said Criminal Appeal.

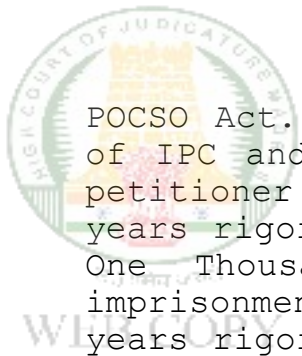
PRAYER IN CRL A(MD) No.295 of 2020:

Pleased to set-aside the conviction judgement in Spl.S.C.No.28 of 2017 dated 26.11.2019 passed by the Hon'ble Sessions Judge, Fast Track Mahila Court, Theni District, and allow the criminal appeal preferred by the Appellant.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.B.SUDHASATHYANANTH, Advocate for the petitioner and of Mrs.S.BHARATHI Government Advocate, on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Fast Track Mahila Court, Theni District, in S.C.No.28 of 2017 dated 26.11.2019, till the disposal of the appeal.

2.The case against the petitioner is that he kidnapped a minor girl on 13.12.2016 and kept her in his custody till 16.12.2020 and committed rape. A case in Crime No.275 of 2016 was registered by the Respondent Police under Section 366 and 365 of IPC and Section 6 of



POCSO Act. The petitioner was found guilty under Sections 366, 365 of IPC and Section 6 of POCSO Act. The trial Court convicted the petitioner under Section 366 of IPC and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo 12 months simple imprisonment and under Section 365 of IPC sentenced him to undergo 7 years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo 12 months simple imprisonment and under Section 6 of POCSO Act sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo 12 months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.295 of 2020 and along with the appeal, they filed this petition for suspension of sentence.

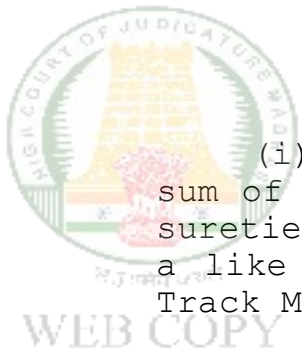
3.On the side of the petitioner, it is stated that originally the mother of the victim lodged a complaint as 'girl missing'. Later the case was altered into Sections 366, 365 of IPC and Section 6 of POCSO Act. It is further stated that the age of the victim as per the case of prosecution is 17 years. Whereas the mother of the victim has deposed that the father of the victim died 18 years ago. Thereby, the age of the victim is not clearly proved by the prosecution. It is stated that the victim is said to have completed 10th standard. But the mark sheet and transfer certificate were not filed by the prosecution. The victim has deposed that she was having love affairs with the petitioner. The victim has no external injuries. The age of the victim was fixed only based on the medical report, which is not a conclusive proof. There are much more points to be argued in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that 164 statement was recorded by the Court and the same was marked as Ex.P8. The certificate from the educational institution was marked as Ex.P7. The prosecution has examined 16 witnesses and marked 9 documents. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioners and prayed the petition to be dismissed.

5.It is seen that the petitioners are in custody from 26.11.2019 onwards. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioners and considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioners herein are entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioners are

<https://hccservices.mca.gov.in/hccservices/> released on bail on the following conditions:



(i) the petitioners are directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judge, Fast Track Mahila Court, Theni District ;

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

(iv) the petitioners 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.

sd/-
09/10/2020

/ TRUE COPY /

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

TO

1. THE JUDGE, FAST TRACK MAHILA COURT,
THENI DISTRICT.

2. THE INSPECTOR OF POLICE,
JAYAMANGALAM POLICE STATION,
THENI DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.B.SUDHA SATHIYANANTH, Advocate (SR-6944[I] dated 13/10/2020)

ORDER
IN
CRL MP(MD) No.4831 of 2020
IN
CRL A(MD) No.295 of 2020
Date : 09/10/2020

MRN
TK/VR/SAR.3/13.10.2020/3P/6C

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