



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Wednesday, the Fourteenth day of October Two Thousand and Twenty

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PRESENT

The Hon'ble Mrs.Justice R.THARANI

CRL MP(MD) No.4811 of 2020

IN

CRL A(MD) No.293 of 2020

MOHANRAJ

... PETITIONER/PETITIONER

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
PALLAVIDUTHI POLICE STATION,
(I/C) THOGAMALAI POLICE STATION,
KARUR DISTRICT.
CR.NO.143 OF 2018

... RESPONDENT/RESPONDENT

Petition filed 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 Additional Sessions Court, Karur in Spl.S.C.No.22 of 2018 by the Judgment dated 28.11.2018 and enlarge the petitioner/Accused on bail, pending disposal of the above said CRL A(MD) No.293 of 2020.

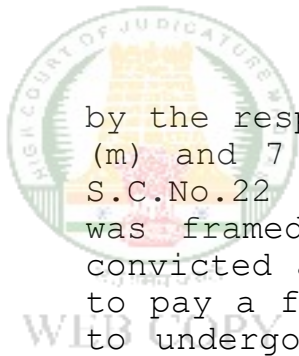
Prayer in CRL A(MD) . 293/ 2020 :

To set aside the Judgment and Conviction dated 28.11.2018 by learned Additional Sessions Judge, Karur in Spl.S.C.No.22 of 2018 and acquit the Appellant.

Order : This petition coming on for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.D.RAMESHKUMAR, 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 passed by the learned Additional Sessions Judge, Karur, in Special S.C.No.22 of 2018, dated 28.11.2018 and to enlarge the petitioner on bail, pending the disposal of the Criminal Revision.

2.The case against the petitioner is that on 04.06.2018 at 03.00 pm, the petitioner sexually misbehaved with the minor girl. A case was registered against the petitioner in Crime No.143 of 2018,



by the respondent police and charge sheet was filed under Sections 5 (m) and 7 of POCSO Act and the same was taken on file as Special S.C.No.22 of 2018 by the Additional Sessions Judge, Karur. Charge was framed under Section 7 of POCSO Act and the petitioner was convicted and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo further period of three months simple imprisonment and the petitioner was directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the victim / P.W.2, as compensation under Section 357 (A) and 33 (8) of POCSO Act. Against the conviction and sentence, the petitioner filed an appeal in Crl.A.(MD)No.293 of 2020. Along with the appeal, the petitioner preferred the present application for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner already undergo incarceration for a period of four months. Almost 1/3rd of the entire conviction period was over. It is stated that there is no external injury to the victim. The first complaint lodged by the complainant was suppressed by the police. There is a delay in F.I.R. There are much more points for arguments in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the respondent, it is stated that the victim is 10 years old female child. Medical evidence and the statement of the doctor corroborated with the evidence of P.W.1, who is the mother of the victim. The accident register copy was marked as Ex.P4 and the medical report which was marked as Ex.P5 also corroborated with the evidence of P.W.1. Under Section 7 of POCSO Act, the intention itself is sufficient. There is no necessity for corroboration of a medical evidence. It is further stated that the petitioner was granted suspension of sentence by the trial Court, but he failed to file any petition before the Court. NBW was issued to the petitioner and he was arrested on 04.09.2020 and he was in custody from 04.09.2020, not from the date of judgment and prayed the petition to be dismissed.

5.On the side of the petitioner, it is stated that due to financial condition, the petitioner could not approach this Court for suspension of sentence at that time.

6.It is seen that before the trial, the petitioner was in custody for a period of two months and after being arrested by the police i.e. on 04.09.2020, the petitioner is in custody for a period of one month. Total incarceration is three months. The financial condition of the petitioner cannot be a ground for the delay in filing the petition, as legal aid is available. Since the petitioner did not approach this Court for suspension of sentence, he was arrested by the police.

<https://hcservices.ecourts.gov.in/hcservices> 7.In the above circumstances, the reasons stated by the



petitioner are not satisfactory. Hence, this Court is not inclined to allow the petition at the present. The petitioner is at liberty to approach the Court again on change of circumstances.

sd/-
14/10/2020

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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,
PALLAVIDUTHI POLICE STATION,
(I/C) THOGAMALAI POLICE STATION,
KARUR DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.4811 of 2020 IN
CRL A(MD) No.293 of 2020
Date :14/10/2020

LS
SRS/SMA/SAR-IV/03.11.2020/ 3P/4C