



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

Wednesday, the Second day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.5085 of 2020

IN

CRL A(MD) No.308 of 2020

AMMASI

... APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
APPAN THIRUPPATHY POLICE STATION,
MADURAI DISTRICT,
CRIME NO.89 OF 2016

... RESPONDENT/COMPLAINANT

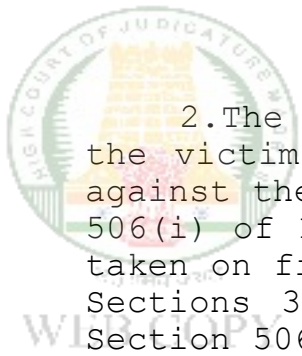
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed against the petitioner and release the petitioner on bail pending disposal of the main Criminal Appeal before this Hon`ble Court against the judgment of the Hon`be Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai in Spl.S.C.No.45 of 2017 dated 13.02.2020.

Prayer in CRL A(MD) No.308 of 2020:

To call for the entire records connected with the judgment rendered by the Hon`ble Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai in Spl.S.C.No.45 of 2017 dated 13.02.2020 and set aside the same and consequently acquit the appellant.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of MR.R.PRAKASH, Advocate for the appellant and of MR.A.SARAVANA KUMAR, Government Advocate on behalf of the Respondent, while admitting the CRL.A., the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai in Spl.S.C.No.45 of 2017 dated 13.02.2020, till the disposal of the appeal.



2.The case against the petitioner is that he misbehaved with the victim boy, who is studying fourth standard. A case was filed against the petitioner in Crime No.89 of 2016 under Sections 377 and 506(i) of IPC and Sections 3(a), 4, 5(1)(m), 6 of POCSO Act and was taken on file as Spl.S.C.No.45 of 2017, by framing the offence under Sections 3(a) r/w. 4, 5(1) r/w. 6, 5(m) r/w. 6 of POCSO Act and Section 506(i) of IPC. The learned Sessions Judge, Madurai found the petitioner guilty under Sections 5(m) r/w. 6 of POCSO Act and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) in default to undergo six months rigorous imprisonment and for the offence under Section 506(i) of IPC, sentenced him to undergo one year rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo one month simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.308 of 2020 and along with the appeal, they filed this petition for suspension of sentence.

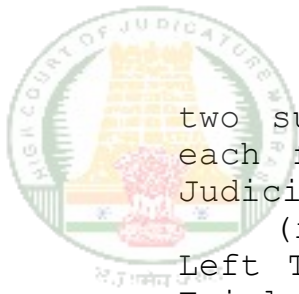
3.On the side of the petitioner, it is stated that the petitioner is 62 years old. The medical evidence did not support the case of prosecution. P.W.9 has deposed that there is no symptoms of sexual assault. The original complaint was suppressed by police. Ex.P1 is a fabricated document. There are contradictions between Ex.P1 and the evidence of P.W.1. The petitioner is in custody for the past eight months and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the prosecution has examined 14 witnesses and marked 15 documents. The case was proved by the prosecution beyond all reasonable doubts. The trial Court has rightly convicted the petitioner. The confession statement was marked as Ex.P4. The medical certificate of the victim was marked as Ex.P5. The age certificate was marked as Ex.P6. The statement of victim under Section 164 Cr.P.C., was marked as Ex.P14. All the documents proved the case of the prosecution and prayed the petition to be dismissed.

5.It is seen that the petitioner is already in custody for the past eight months and the fine imposed by the Special Court was already paid by the petitioner. Considering the period of incarceration and considering the fact that an opportunity for the petitioner to put forth his case is to be given, this Court is of the view that the petitioner herein is 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 petitioner is ordered to be released on bail on the following conditions:

- (i) the petitioner is directed to execute a bond for a



two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate No.V, Madurai;

(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 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.

sd/-
02/12/2020

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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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, MADURAI.
- 2 THE JUDICIAL MAGISTRATE NO.V, MADURAI.
- 3 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
- 4 THE INSPECTOR OF POLICE,
APPAN THIRUPPATHY POLICE STATION, MADURAI DISTRICT.
- 5 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 6 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.5085 of 2020
IN
CRL A(MD) No.308 of 2020
Date : 02/12/2020

MRN
JM/PN/SAR IV/03.12.2020/3P/7C

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