



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

Wednesday, the Twenty Eighth day of October Two Thousand and Twenty

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL MP(MD) No.5385 of 2020

IN

CRL A(MD) No.319 of 2020

PERIYAKARUPPAN

... APPELLANT/1ST ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
UTHAPPANAYAKANUR POLICE STATION,
MADURAI CTIY.
CRIME NO.2 OF 2014

... RESPONDENT/COMPLAINANT

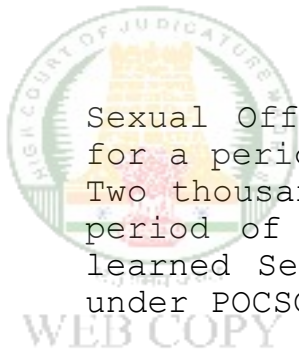
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to pass an order to suspend the sentence dated 23.09.2019 made in S.C.No.64 of 2014 on the file of the learned Sessions Judge Special Court for Exclusive Trial of cases under POCSO, Madurai dated convicting the appellant for the offences under Sections 8 of POCSO Act and sentencing him for three years Simple Imprisonment and fine for a sum of rupees Rs.2000/-in default to undergo three months Simple Imprisonment pending disposal of the above Criminal Appeal.

PRAYER IN CRL A(MD) No.319 of 2020:

Pleased to set aside the Judgment and order of conviction dated 23.09.2019 made in S.C.No.64 of 2014 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Madurai convicting the appellant for the offences under Sections 8 of POCSO Act and sentencing him for three years Simple Imprisonment and fine for a sum of rupees Rs.2000/-in default to undergo three months Simple Imprisonment and allow the Criminal Appeal.

Order : This petition coming on for orders, on this day upon perusing the petition filed in support thereof and upon hearing the arguments of Mr.V.SASI KUMAR, Advocate for the Appellant and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal., the court made the following order:-

The learned counsel for the petitioner submitted that the petitioner has been convicted by the learned trial Judge for the alleged offence under Section 8 of Protection of Children from



Sexual Offences Act 2012, sentenced to undergo simple imprisonment for a period of three years and to pay a fine of Rs.2,000/- (Rupees Two thousand only) in default to undergo simple imprisonment for a period of three months in S.C.No.64 of 2014, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai.

2.It is submitted by the learned counsel for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses. The learned counsel for the petitioner further submitted that the suspension of sentence has already been granted by the trial court till 23.10.2020.

3.It is submitted by the learned Additional Public Prosecutor that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

4.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

5.The learned counsel for the petitioner pointed out that certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this Court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

6.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, and on further condition that the petitioner shall appear before the said Court daily at 10.30 a.m. until further orders.

sd/-
28/10/2020

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



TO

1.THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT, MADURAI.

2.THE INSPECTOR OF POLICE,
UTHAPPANAYAKANUR POLICE STATION,
MADURAI CTIY.

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

+1. C.C. to Mr.V.SASI KUMAR Advocate SR.No.7199

ORDER
IN
CRL MP (MD) No.5385 of 2020
IN
CRL A (MD) No.319 of 2020
Date :28/10/2020

VSD
TK/VR/SAR.3/28.10.2020/3P/5C