



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

Friday, the Eleventh day of December Two Thousand and Twenty

Reserved On : 04.12.2020

Pronounced On : 11.12.2020

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6033 of 2020

IN

CRL A(MD) No.336 of 2020

RAMKUMAR

... APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION SAMAYANALLUR,
MADURAI DISTRICT.
CRIME NO.22 OF 2018

... RESPONDENT/COMPLAINANT

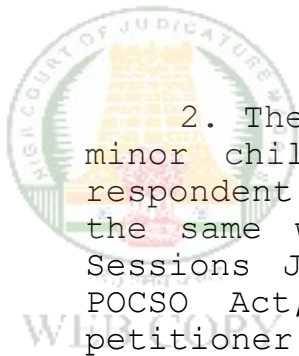
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence impose don the petitioner by the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai in S.S.C.No.55 of 2019 by his Judgment dated 13.10.2020.

Prayer in CRL A(MD) No.336 of 2020:

To call for records in S.S.C.No.55 of 2019 on the file of the Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai and set aside the conviction passed by judgment dated 13.10.2020.

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.E.SATISH RAJKUMAR, Advocate for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition has been filed to suspend the sentence imposed on the petitioner by the Sessions Judge, Special Court for exclusive trial of Cases under POCSO Act, Madurai, in Special S.C.No.55 of 2019, dated 13.10.2019.



2. The case against the petitioner is that he misbehaved with a minor child, a case under the POCSO Act was registered by the respondent police against the petitioner in Crime No.22 of 2018 and the same was taken on file as Special S.C.No.55 of 2019 by the Sessions Judge, Special Court for exclusive trial of Cases under POCSO Act, Madurai and the Special Court, Madurai, found the petitioner guilty under Section 8 of POCSO Act and sentenced the petitioner to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.5,000/-, in default, to undergo simple imprisonment for one month. Against the said conviction and sentence, the petitioner filed an appeal, in Crl.A.(MD)No.336 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 trial Court has suspended the sentence till 03.11.2020. The petitioner is a mason and vital witnesses were not examined by the prosecution. Earlier complaint was suppressed by the police and Ex.P1 was also a fabricated document. 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 prosecution, it is stated that the prosecution has examined 9 witnesses as P.Ws.1 to 9 and marked 12 documents as Exs.P1 to P12 and the prosecution has proved beyond all reasonable doubts. It is further stated that the petitioner has not filed any petition for extension of suspension of sentence before the trial Court and prayed the petition to be dismissed.

5. On the side of the petitioner, by way of reply, it is stated that the trial Court refused to entertain any petition for extension of the suspension of sentence. It is further stated that since the petitioner has filed this appeal before 03.11.2020, the petitioner has not filed a petition for extension before the trial Court and the trial Court is not ready to extend the suspension order and prayed the suspension of sentence petition to be allowed.

6. On the side of the prosecution, it is stated that the trial Court has issued Non-Bailable Warrant for the arrest of the petitioner and prayed the petition to be dismissed.

7. It is seen that the petitioner got a suspension of sentence from the trial Court, which was valid till 03.11.2020. The contention of the petitioner is that the petitioner filed the criminal appeal and since that appeal was pending, the petitioner did not approach the trial Court for extension of the order of suspension of sentence.

8. A perusal of the records reveals that the petitioner filed this Criminal Appeal along with the suspension of sentence on 03.11.2020, after the expiry of the suspension order. Another



contention of the petitioner is that the trial Court refused to pass an extension order. When the petitioner has not filed any petition for extension, the representation by the petitioner that the trial Court is not willing to pass an order is wrong.

9. Considering the facts and circumstances of the case and also considering the fact that the petitioner did not approach this Court within the expiry of the suspension order, the reason stated for the non-filing of the extension petition is not reasonable and since Non-Bailable Warrant is pending against the petitioner, this Court is not inclined to allow the petition at present. Hence, this Criminal Miscellaneous Petition is dismissed.

sd/-
11/12/2020

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/ /2020
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,
ALL WOMEN POLICE STATION SAMAYANALLUR,
MADURAI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.6033 of 2020
IN
CRL A (MD) No.336 of 2020
Date :11/12/2020

LS
JM/PN/SAR III/16.12.2020/3P/4C