



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

Friday, the Fourth day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6363 of 2020
IN
CRL A(MD) No.348 of 2020

1 JEYAPPAUL
2 PILLAMA NAYAKKAR
3 KAMAKKAMMAL
4 CHINNA RASU
5 SIVAKAMI
6 THANGAVEL
7 VELLAIYA NAYAKKAR
8 CHINNA DURAI
9 SAKTHIVEL
10 MANI VEL @ MANIKANDAN
11 THAMBI DURAI

... PETITIONERS/ APPELLANTS

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
THOGA MALAI POLICE STATION,
KARUR DISTRICT.
CRIME NO.159/2017

... RESPONDENT/ RESPONDENT

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 of suspend the sentence, to suspend the sentence, imposed against the petitioners vide judgement dated 23/10/2020 made in Spl.S.C.No.8 of 2018 on the file of the Learned Additional Sessions Court,Karur, pending disposal of the present CRL.A.

PRAYER IN CRL A(MD) No.348 of 2020:

To set aside the conviction judgment dated 23.10.2020 made in Spl.S.C.No.8 of 2018 on the file of learned Additional Sessions Court, Karur in so far as the appellants' conviction is concerned and consequently to acquit the appellants.

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.M.KANNAN, Advocate for the petitioners and of Mr.SARAVANA KUMAR, Government Advocate on behalf of the Respondent, while conducting the CRL.A., the court made the following order:-

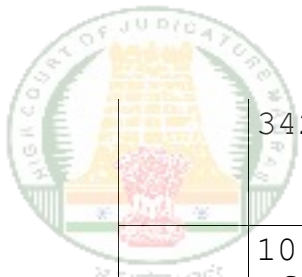


Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

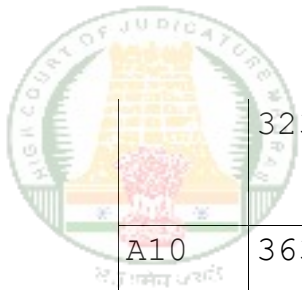
2. This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioners / appellants passed by the learned Additional Sessions Judge, Karur, vide judgment dated 23.10.2020, in Spl.S.C.No.8 of 2018.

3. The case against the petitioners is that A1 kidnapped a minor girl and A2 to A13 arranged for the child marriage between the victim and A1. A case was registered in Crime No.159 of 2017 and was taken on file as Spl.S.C.No. 8 of 2018 on the file of the Additional Sessions Judge, Karur. The learned Additional Sessions Judge, Karur, found the petitioners and two others guilty vide judgment dated 23.10.2020. The details of the punishments are as follows:

Accused	Under Section	Punishment
A1	363 of I.P.C.	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
	342 of I.P.C.	Rs.1,000/- fine, in default of fine, 3 months simple imprisonment
	9 of Prohibition of Child Marriage Act	2 Years RI and Rs.5000/- as fine, in default of fine, 6 months simple imprisonment
	5(n),6 of POCSO Act, 2012	20 years RI and Rs.1,000/- as fine, in default of fine, 3months simple imprisonment
	506(i) of IPC	Rs.1000/- as fine, in default of fine, 3 months simple imprisonment
A2	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
A3	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment



	342 of I.P.C.	Rs.1,000/- fine, in default of fine, 3 months simple imprisonment
	10 of Prohibition of Child Marriage Act	2 Years RI and Rs.1000/- as fine, in default of fine, 3 months simple imprisonment
	506(i) of IPC	Rs.1000/- as fine, in default of fine, 3 months simple imprisonment
A4	10 of Prohibition of Child Marriage Act	2 Years RI and Rs.1000/- as fine, in default of fine, 3 months simple imprisonment
A5	363 of IPC r/w. 109 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
A6	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
	342 of I.P.C.	Rs.1,000/- fine, in default of fine, 3 months simple imprisonment
A7	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
	342 of I.P.C.	Rs.1,000/- fine, in default of fine, 3 months simple imprisonment
A8	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
A9	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
	10 of Prohibition of Child Marriage Act	2 Years RI and Rs.1000/- as fine, in default of fine, 3 months simple imprisonment



	323 of I.P.C.	Rs.1,000/- fine, in default of fine, 3 months simple imprisonment
A10	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
A11	363 of IPC	3 years RI and Rs.1000/- fine, in default of fine, 3 months simple imprisonment
	506(i) of IPC	Rs.1000/- as fine, in default of fine, 3 months simple imprisonment
A12	10 of Prohibition of Child Marriage Act	2 Years RI and Rs.1000/- as fine, in default of fine, 3 months simple imprisonment
A13	342 of I.P.C.	Rs.1,000/- fine, in default of fine, 3 months simple imprisonment

4. As against the said conviction and sentence, the petitioners / A2 to A12 have preferred an Appeal in Crl.A.(MD)No.348 of 2020. Along with the Appeal, they have filed the present application for suspension of sentence pending disposal of the said Appeal.

5. On the side of the petitioners, it is stated that the first accused and the victim girl, who is 17 years old, were having love affairs. A2 to A13 only attended the marriage between the victim and the first accused. The petitioners herein are arrayed as A2 to A12 and there is actually no allegation as against the petitioners, except attending the marriage. There are much more points for arguments in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

6. On the side of the respondent, it is stated that initially the case was registered as "girl missing" in C.S.R.No.159 of 2017, later, the same was registered as Crime No.159 of 2017 and charge sheet was filed against the petitioners, the prosecution has examined 23 witnesses and marked 24 documents and 4 material objects and the prosecution has proved the case beyond all reasonable doubts and prayed for the dismissal of the petition.

7. It is seen that the major allegation is as against the first accused. Petitioners are convicted under the Child Marriage Act. The age of the victim is 17 years. Considering the nature of the allegation, this Court is inclined to grant suspension of sentence till the disposal of the Appeal, on their executing a bond for a sum of Rs.10,000/-(Rupees Ten thousand only) each with two sureties, each of whom, one should be a blood relative, each for a like sum to



the satisfaction of the learned Additional Sessions Judge, Karur, and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression along with their signature in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Voter I.D to ensure their identity;

(ii) 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 or until further orders.

sd/-

04/12/2020

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/ /2020

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
THOGA MALAI POLICE STATION, KARUR DISTRICT.

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-7949[I] dated 07/12/2020)

ORDER

IN

CRL MP(MD) No.6363 of 2020

IN

CRL A(MD) No.348 of 2020

Date :04/12/2020

MS/PN/SAR-4/16.12.2020/5P.5C