



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

Thursday, the Seventeenth day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6583 of 2020
IN
CRL A(MD) No.351 of 2020

JESU

... APPELLANT/ SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUMAYAM,
PUDUKKOTTAI DISTRICT.
CRIME NO.4/2019

... 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 of Imprisonment imposed by the learned Sessions Judge, Mahila Court, Pudukkottai in Spl.SC.No.13 of 2019, dated 19.11.2020 and enlarge the petitioner/ Appellant on bail, pending disposal of the above said Criminal Appeal.

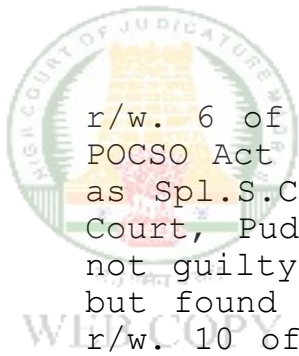
PRAYER IN CRL A(MD) No.351 of 2020:

To set aside the judgment and Conviction dated 19.11.2020 by the learned Sessions Judge, Mahila Court, Pudukkottai Spl.S.C.No.13 of 2019 and 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.D.RAMESHKUMAR, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Mahila Court, Pudukkottai in Spl.S.C.No.13 of 2019 dated 19.11.2020, till the disposal of the appeal.

2.The case against the petitioner is that the accused misbehaved with ten years female child. A case was registered against the petitioner in Crime No.4 of 2019 under Sections 5(1)



r/w. 6 of POCSO Act, 5(m) r/w. 6 of POCSO Act, 5(n) r/w. 6, 8 of POCSO Act and Section 506(ii) of IPC and the same was taken on file as Spl.S.C.No.13 of 2019 before the learned Sessions Judge, Mahila Court, Pudukkottai. The learned Session Judge found the petitioner not guilty under Section 506(ii) of IPC and Section 8 of POCSO Act but found the petitioner guilty under Sections 9(l), 9(m) and 9(n) r/w. 10 of POCSO Act. The petitioner was convicted under Section 9 (l) r/w. 10 of POCSO Act and was sentenced to undergo rigorous imprisonment for five years and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo two months simple imprisonment and under Section 9(m) r/w. 10 of POCSO Act, he was sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo two months simple imprisonment and under Section 9(n) r/w. 10 of POCSO Act, he was sentenced to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo two months simple imprisonment. Against the order of conviction and sentence imposed by the trial Court, the petitioner filed the present Criminal Appeal. Along with appeal, the petitioner filed this petition for suspension of sentence till the disposal of the appeal.

3.On the side of the petitioner, it is stated that medical evidence is not supporting the case of the prosecution. The petitioner is a close relative of the victim. The medical evidence clearly reveals that the petitioner did not attained puberty and there is no external injury and the medical evidence did not support the case of prosecution. It is stated that the defacto complainant filed an earlier complaint before some other police and that the case was closed and those facts are suppressed in this case. The petitioner is in custody for the past one year 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 8 witnesses and marked 11 documents and marked one material object. The statement of the victim was recorded under Section 164 of Cr.P.C., and was marked as Ex.P3. The accident register of the victim was marked as Ex.P6. P.W.1 has clearly deposed the case of the prosecution. The case was proved by the prosecution beyond all reasonable doubts and prayed to dismiss the petition.

5.It is seen that the allegation against the petitioner is serious in nature. But it is seen that there are some points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to



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 sum of Rs.10,000/- (Rupees ten thousand only) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Pudukkottai ;

(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/-
17/12/2020

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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 SESSIONS JUDGE, MAHILA COURT, PUDUKKOTTAI.
- 2 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, THIRUMAYAM, PUDUKKOTTAI DISTRICT.
- 3 THE OFFICER INCHARGE, SUB JAIL, THIRUMAYAM, PUDUKKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.6583 of 2020
IN CRL A(MD) No.351 of 2020
Date : 17/12/2020