



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

Tuesday, the Twenty Second day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6719 of 2020

IN

CRL A(MD) No.358 of 2020

VELMURUGAN

... PETITIONER/APELLANT

Vs

THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
VALLAM POLICE STATION,
THANJAVUR.

CRIME NO.287/2014.

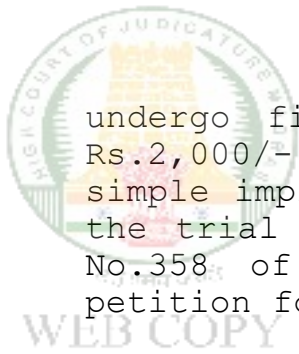
... RESPONDENT/COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed on the Petitioner by order dated 28.02.2020 passed Spl. S.C.No.25/2019 on the file of the Learned Principal District and Sessions Judge Special Court for Protection of Children from sexual Offences Act, Thanjavur.

Order:This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.B.JAMEEL ARASU, Advocate for the petitioner and of MRS.S.BHARATHI, Government Advocate(Crl.Side)on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Principal Sessions Judge, Thanjavur in Spl.S.C.No.25 of 2019 dated 28.02.2020, till the disposal of the appeal.

2.The case against the petitioner is that on 06.10.2014, at about 09.00 a.m., the petitioner with an intention to misbehave with the victim girl entered into the house of the victim and sexually harassed that minor girl aged about nine years. A case was registered against the petitioner in Crime No.287 of 2014 under Section 452 of IPC and Section 8 of POCSO Act and the same was taken on file as Spl.C.No.25 of 2019 before the learned District and Sessions Judge, Thanjavur. The learned Judge found the petitioner guilty under Section 452 of IPC and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo one year simple imprisonment and under Section 8 of POCSO Act, sentenced him to



undergo five years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo one year simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed an appeal in Crl.A.(MD) No.358 of 2020. 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 out of ten witnesses, P.W.1 to 5 are all relatives. P.W.1 is the father of the victim. P.W.3 is the aunty of the victim. There is no independent eye witness examined by the prosecution. It is further stated that P.W.1 saw the accused in the police station and then only the accused was arrested by the police. The confession statement was not proved by the police. Ex.A3 is contrary to the medical evidence. The petitioner is in custody from 28.02.2020 onwards I.e. Approximately ten months and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the prosecution has examined 14 witnesses and marked 9 documents. The victim girl is nine years old, who was affected by polio. Knowing that nobody else was in the house, the petitioner trespassed into the house and gave sexual assault to her. The AIR was marked as Ex.A3 and the medical report was marked as Ex.A4. The school certificate was marked as Ex.A6. The evidence of P.W.2 and the evidence of P.W.3 supported the case of prosecution. P.W.7 has deposed that the victim is a mentally retarded child and she has sustained injuries in her private parts and she took treatment for 12 days. P.W.10, the doctor has given a statement that the victim has sustained 4 x 2 cm bitten injury on her chest and prayed the petition to be dismissed.

5.On the side of the petitioner, it is stated that the petitioner is a neighbour and he brought up the victim from her childhood and there is no possibility for him to misbehave with the victim.

6.It is seen that the offence is serious in nature. The victim girl is mentally retarded and handicapped aged about nine years old. The allegation are serious in nature and there is no chance for independent eye witness in the case of similar offences.

7.In view of the same, this Criminal Miscellaneous Petition is dismissed at present.

sd/-
22/12/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT,
THANJAVUR.

2. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3. THE INSPECTOR OF POLICE,
VALLAM POLICE STATION
THANJAVUR.

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

ORDER

IN

CRL MP(MD) No.6719 of 2020

IN

CRL A(MD) No.358 of 2020

Date : 22/12/2020

MRN

PK/SMA/SAR-II/28.12.2020 : 3P/5C