



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

Wednesday, the Twenty Third day of December Two Thousand and Twenty

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7148 of 2020
IN
CRL A(MD) No.364 of 2020

SANTHOSH SARAN

... PETITIONER/ APPELLANT
(ACCUSED NO.1)

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
KOTTAR POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
CRIME NO.183/2015

... RESPONDENT/ RESPONDENT

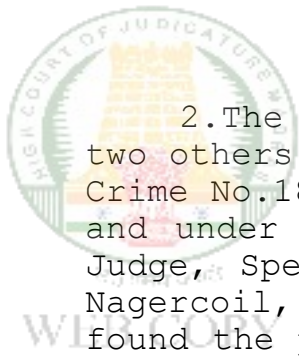
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the Appellant /1st Accused in Special S.C.No.4 of 2015 on the file of the Sessions Judge, Special court for the Exclusive trial of POCSO Act Cases Nagercoil, Kanyakumari District dated 02/12/2020 and enlarge the petitioner on bail pending disposal of the instant Criminal Appeal.

PRAYER IN CRL A(MD) No.364 of 2020:

To admit the appeal preferred by this Appellant/ 1st Accused and call for the records from the Trial Court in Special S.C.No.4 of 2015 on the file of the Sessions Judge, Special Court for the exclusive trial of POCSO Act Cases, Nagercoil, Kanyakumari District and set aside the conviction and sentence dated 02.12.2020, imposed on 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.N.ANANTHAPADMANABHAN, Advocate for M/S.APN LAW ASSOCIATES for the petitioner and of MR.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, While admitting the CRL.A., the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for the Exclusive Trial of POCSO Act cases, Nagercoil, in Special S.C.No.4 of 2015 dated 02.12.2020, till the disposal of the appeal.



2.The case against the petitioner is that the petitioner and two others misbehaved with a minor boy and assaulted him. A case in Crime No.183 of 2015 was registered under Sections 365 and 323 I.P.C and under Sections 7 and 8 of POCSO Act. The learned Sessions Judge, Special Court for the Exclusive Trial of POCSO Act cases, Nagercoil, take up the case on file as Special S.C.No.4 of 2015 and found the petitioner guilty under Section 365, 323 of IPC and under Section 8 of POCSO Act. The trial Court convicted the petitioner under Section 365 of IPC and sentenced him to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default to undergo a further period of six months simple imprisonment, convicted the petitioner under Section 8 of POCSO Act and sentenced him to undergo 3 ½ years rigorous imprisonment and to pay a fine of Rs.1,500/- (Rupees One Thousand Five Hundred only), in default to undergo further period of six months simple imprisonment and convicted the petitioner under Section 323 of I.P.C., and sentenced him to undergo six months simple imprisonment and to pay a fine of Rs.500/- (Rupees Five Hundred only), in default, to undergo further period of one month simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.364 of 2020 and along with the appeal, he filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there is a delay of two days in lodging the complaint. The occurrence is said to have taken place on 13.03.2015, but, the complaint was lodged only on 15.03.2015. There are contradictions between the evidence of P.W.1 and P.W.2. The victim has not stated anything regarding the occurrence before the Doctor and he has also admitted that he has not stated anything regarding the occurrence before the Doctor. In the A.I.R. copy, it is stated that the victim was assaulted by three known persons. P.W.3 has stated that they gave a signed blank paper for the police to lodge a complaint. The petitioner is a student doing Chartered Accountant and he has to write his examinations. There are much more points to be argued 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 11 witnesses (P.W.1 to P.W.11) and marked 8 documents (Ex.P1 to P.8). Wound certificate of the victim was marked as Ex.P5. School certificate of the victim was marked as Ex.P4. P.W.1 has clearly deposed in support of the prosecution case. The evidence of P.W.8/ Doctor corroborated the evidence of P.W.1. The petitioner committed serious offence, which is against the Society. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioner and prayed the petition to be dismissed.

