



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

Wednesday, the Twenty Second day of January Two Thousand Twenty

PRESENT

The Hon`ble Mr.Justice T.RAJA
and

The Hon`ble Mr.Justice B.PUGALENDHI

CRL MP(MD) No.11497 of 2019

IN

CRL A(MD) No.618 of 2019

ASHRAFF ALI

... PETITIONER/ APPELLANT

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, ALANGUDI,
PUDUKKOTTAI DISTRICT.
(IN CRIME NO.7 OF 2018)

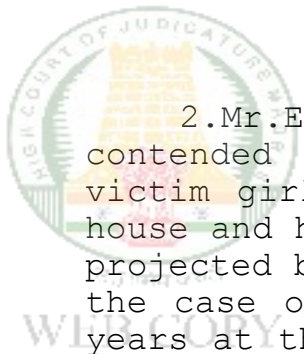
... RESPONDENT/ RESPONDENT

Petition praying that in the circumstances stated therein and in the petition filed therewith the High Court will be pleased to suspend the sentence imposed by the Judgment dated 03.08.2019 passed in Spl.S.C.No.28 of 2018 dated 03.08.2019 on the file of the learned Principal Sessions Judge (Mahila Court), Pudukkottai and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

Order : This petition coming on for orders upon perusing the petition filed in support thereof and upon hearing the arguments of MR.E.SOMASUNDARAM, Advocate for the petitioner and of MR.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by T.RAJA, J.)

The appellant, who is the sole accused in Spl.S.C.No.28/2018 on the file of the Principal Sessions Judge (Mahila Court), Pudukkottai, who was convicted by judgment dated 03.08.2019 for offence under Section 5(l), 5(m), 5(N) of POCSO Act 2012 and sentenced to undergo imprisonment for life and to pay a fine of Rs.1000/-, in default, to undergo simple imprisonment for one month, is before this Court with the present criminal appeal. Pending appeal, the accused is before this Court with this petition seeking suspension of substantive sentence of imprisonment.



2.Mr.E.Somasundaram, learned counsel for the petitioner, contended that the petitioner/appellant being grandfather of the victim girl, was living along with the family members in the same house and hence there is no possibility for any serious complaint as projected by the prosecution. He further submitted that even as per the case of the prosecution, when the victim girl, who was aged 7 years at the time of occurrence, resides with her parents, siblings along with their grandparents, aunts and uncles, it is quite improbable to allege that the petitioner/accused, who is the grandfather of the victim girl, has allegedly taken her to his room and by tying her hands and legs said to have committed the alleged offence. Arguing further, comparing the age of the victim girl and that of the accused, who is aged 70 years and also indicating the relationship between the victim and accused being fatherly one, the learned counsel submitted that the prosecution ought not to have projected a serious allegation against a senior citizen and this has not been judiciously considered by the trial Court and the petitioner/accused is at tale end of his life, he would not have ventured as alleged by the prosecution.

3. However, we are unable to agree with the arguments advanced by the learned counsel for the petitioner. The reason being, P.W.-8 Doctor, who examined the victim girl in the Hospital, deposed that on 08.10.2012 at about 11.14 hrs, when he was in duty, the victim girl was brought for treatment and on examination, the victim girl told the alleged history of sexual assault by a known person by narrating that she was given some tablets by him and subsequently, she became unconscious and thereafter, tying her legs and hands, she was subjected to sexual assault.

4. Considering the facts and circumstances of the case, we do not want to proceed further, as the criminal appeal is pending for final hearing. Therefore, finding no merits in the submissions, this petition fails and the same is dismissed.

sd/-
22/01/2020

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

TO

1 THE PRINCIPAL SESSIONS JUDGE,
(MAHILA COURT), PUDUKKOTTAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, ALANGUDI,
PUDUKKOTTAI DISTRICT.

<https://hcservicedesk.mca.gov.in/AccessDes>



3 THE SUPERINTENDENT,
CENTRAL JAIL, TRICHY.

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

ORDER
IN
CRL MP (MD) No.11497 of 2019
IN
CRL A (MD) No.618 of 2019
Date :22/01/2020

RR
TK/VR/SAR-4/03.02.2020/3P/5C