

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Twenty Sixth day of February Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.2315 of 2021

IN CRL.A.No.95 of 2021

JAMES

[PETITIONER / APPELLANT /
SOLE ACCUSED]

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ANNADHANAPATTY POLICE STATION,
SALEM.
CR.NO.12/2015.

[RESPONDENT / RESPONDENT /
COMPLAINANT]

Petition praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.A.No.95/2021 on the file of the High Court, the High Court will be pleased to suspend the sentence and conviction imposed against the petitioner in Old S.C.No.10 of 2018 New S.C.No.71 of 2019 dated 01.09.2020 by the Special Court of The Protection of Children from Sexual Offences Act (POCSO Act) 2012, Salem and enlarge the Petitioner/Accused on bail pending disposal of the above Crl.A.No.95/2021.

Order : This petition coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.A.No.95/2021 on the file of the High Court and upon hearing the arguments of M/S. RESHMI CHRISTY, Advocate for the Petitioner and of M/S.R.SURYAPRAKASH, Government Advocate O/o. PUBLIC PROSECUTOR on behalf of the Respondent the court made the following order:-

This petition has been filed seeking to suspend the sentence imposed on the petitioner by judgement dated 01.09.2020 in Old S.C.No.10 of 2018, New S.C.No.71 of 2019 on the file of the Special Court of the Protection of Children from Sexual Offences Act, 2012, Salem.

2. The learned counsel for the petitioner would submit that the petitioner who was arrayed as accused in Crime No.12 of 2015 was convicted and sentenced for the offence under Section 8 r/w 7 of The Protection of Children from Sexual Offences Act 2012 [hereafter 'POCSO

Act' for the sake of convenience] to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.25,000/-, in default, to undergo six months simple imprisonment; and also for the offence under Section 10 r/w 9(i), 9(m) and 9(n) of POCSO Act and to undergo rigorous imprisonment for a period of seven years and to pay a fine of Rs.50,000/-, in default, to undergo one year simple imprisonment. The learned counsel of the petitioner would further submit that the trial Court failed to appreciate the entire evidence wrongly convicted and sentenced the petitioner and he is in custody from 01.09.2020. Therefore, she prays to grant suspension of sentence to the petitioner.

3. The learned Government Advocate (Crl.Side) would strongly object the petition and submits that the petitioner was convicted and sentenced to undergo ten years rigorous imprisonment and that the petitioner is now in jail.

4. Heard the learned counsel on either side and perused materials available on record.

5. It is seen from the records that at the time of occurrence the victim girl was aged about 9 years and the appellant is none other than the father of the victim girl. There is a substantive overt act attributed against the petitioner. The trial Court, after considering the entire materials, found that the accused/petitioner committed offence and convicted and sentenced as above.

6. In the light of the above submissions made by the learned counsel on either side, this Court finds that no ground is made out to grant suspension of sentence to the petitioner. Considering the serious nature of the offence committed by the petitioner under POCSO Act and also taking into account the relationship between the parties, there is a possibility of causing cruelty to the victim girl. Hence, this Court is not inclined to grant suspension of sentence to the petitioner.

7. Accordingly, this miscellaneous petition is dismissed.

-sd/-

26/02/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT
OF THE PROTECTION OF CHILDREN
FROM SEXUAL OFFENCES ACT (POCSO ACT) 2012,
SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANNADHANAPATTY POLICE STATION,
SALEM.

5 THE SECTION OFFICER
CRIMINAL SECTION,
HIGH COURT, MADRAS.

C.C. to M/S.K.V.SAJEEVKUMAR Advocate on payment of necessary
charges

Order

in
CRL MP.2315/2021

in
CRL.A.95/2021

Date :26/02/2021

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