

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Fifth day of July Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice P. VELMURUGAN

CRIMINAL MISCELLANEOUS PETITION No.6511 of 2021

in CRL.A.No.321 OF 2021

ANTONY

[PETITIONER/APPELLANT/ACCUSED]

vs

STATE BY

[RESPONDENT]

INSPECTOR OF POLICE,
AVADI ALL WOMEN POLICE STATION,
CR.NO.01/2017.
THIRUVALLUR DISTRICT.

Petition praying that in the circumstances stated therein the High Court will be pleased to suspend the sentence of imprisonment passed by the trial court namely the court of the Mahalir Neethimandram (Fast Track Mahila Court), Tiruvallur in S.C.No.29/2017 and direct the release of the appellant on bail pending disposal of the CRL.A.No.321 OF 2021.

Order : This petition coming on for orders upon perusing the petition and upon hearing the arguments of M/S.M.MURALIDHARAN, Advocate for the petitioner and of MR.S.SUGENDRAN, Govt. Advocate (Crl. Side) 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 judgment dated 29.04.2019 in S.C.No.29 of 2017 on the file of the learned Sessions Judge, Magalir Neethimandram, (Fast Track Court), Tiruvallur.

2.The learned counsel for the petitioner would submit that the petitioner who was arrayed as accused in S.C.No.29 of 2017 was convicted for the offence under Section 5(m) r/w 6 of The Protection of Children from Sexual Offences Act 2012 and sentenced to undergo rigorous imprisonment for a period of ten years and to pay a fine of Rs.5,000/-, in default, to undergo six months simple imprisonment. He would further submit that the trial Court failed to appreciate the entire evidence wrongly convicted and sentenced the petitioner and he is in custody. Therefore, he 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 victim was 8 years old at the time of occurrence, and when the victim went to the park nearby her house for play, the accused took her to the nearby vacant house and made her to lie down on the floor, and removed her panty and pressed his private part in the genitalia of the victim child and has committed aggravated penetrative sexual assault on the victim child. Thereafter, her mother filed the complaint (Ex.P1) and after enquiry, the Police registered the case for the offence under Section 5 (m) r/w 6 of POCSO Act, and filed a charge sheet. The learned Judge, after considering the facts, rightly convicted the petitioner for the offence under Section 5 (m) of POCSO Act, which is punishable under Section 6 of the POCSO Act, and if the petitioner is released on bail, there is a possibility of the tampering the witnesses and therefore, the learned Government Advocate (Crl.Side) strongly objects the petition. The learned Sessions Judge, on proper appreciation of evidence, rightly convicted the petitioner, which warrants no interference.

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 8 years old. There is a substantive overtact attributed against the petitioner and the trial Court, after considering the entire materials, found that the accused committed the charged offence and convicted and sentenced the petitioner. There is no ground made out to grant suspension of sentence to the petitioner.

6.Considering the gravity of the offence committed by the petitioner under POCSO Act, this Court is not inclined to grant suspension of sentence to the petitioner.

7. Accordingly, this miscellaneous petition is dismissed.

-sd/-

05/07/2021

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 MAGALIR NEETHIMANDRAM
(FAST TRACK MAHILA COURT), TIRUVALLUR

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 INSPECTOR OF POLICE,
AVADI ALL WOMEN POLICE STATION,
THIRUVALLUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SESSIONS JUDGE
MAGALIR NEETHIMANDRAM, (FAST TRACK COURT),
TIRUVALLUR

COPY TO:

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

C.C. to M/S.M.MURALIDHARAN Advocate on payment of necessary
charges

Order

in
CRL MP.6511/2021

in CRL.A.No.321 OF 2021

Date :05/07/2021

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