



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

Monday, the First day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.770 of 2021
in
Crl.A. (MD)No.48 of 2021

BAVA SIKKANDAR

... PETITIONER/ APPELLANT/
SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
VEERAPANDI POLICE STATION,
VEERAPANDI, THENI DISTRICT.
CRIME NO.12/2018

... RESPONDENT/ RESPONDENT/
COMPLAINANT

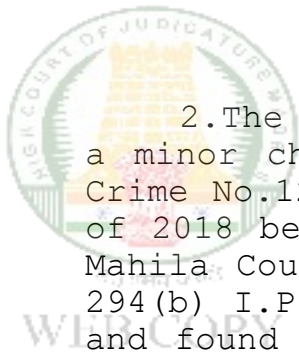
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence and enlarge the petitioner on bail imposed on the appellant by the judgment dated 30/12/2020 made in Spl.S.C.No.08 of 2018 on the file of the Fast Track Mahila Court, Theni and thus render justice.

PRAYER IN Crl.A. (MD)No.48 of 2021;

To call for the records relating to the judgment dated 30.12.2020 made in Spl.S.C.No.08 of 2018 on the file of the Fast Track Mahila Court, Theni and set aside the conviction and sentence imposed against the appellant/ accused and allow above appeal by acquitting the accused.

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.J.SULTHAN BASHA, Advocate for M/S.AJMAL ASSOCIATES, for the petitioner and of Mr.KR.BHARATHI KANNAN, Advocate on behalf of the Respondent, While admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Fast Track Mahila Court, Theni, in Spl.S.C.No.08 of 2018 dated 30.12.2020 till the disposal of the appeal.



2.The case against the petitioner is that he misbehaved with a minor child. A case was registered against the petitioner in Crime No.12 of 2018 and the same was taken on file as Spl. S.C.No.8 of 2018 before the Fast Tract Mahila Court, Theni. The Fast Track Mahila Court, Theni, found the petitioner not guilty under Section 294(b) I.P.C. and Section 3(1)(r) SC / ST (POA) Amendment Act, 2015 and found the petitioner guilty under Section 10 of POCSO Act and sentenced him to undergo five years simple imprisonment and to pay a find of Rs.5,000/-, in default, to undergo a further period of six months simple imprisonment. Against the said conviction and sentence the petitioner filed an appeal in Crl.A.(MD)No.48 of 2021. Along with the Appeal, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that there is a motive between P.W.1 and P.W.2 against the petitioner. The prosecution case is that only after completion of three days after the occurrence, the victim informed the occurrence to her mother, which is unbelievable. The place of occurrence and time of occurrence were not proved by the prosecution. There is a delay in filing the complaint. Both the petitioner and the father of the victim are police persons residing in the police quarters. There is a quarrel in getting tank water in the quarters and the same was proved by the cross-examination of independent witness. The petitioner is in custody for the past 62 days and prayed the sentence to be suspended.

4.On the side of the respondent, it is stated that the victim is 9 years old and the victim was playing with the grand-daughter of the accused at the time of occurrence, The prosecution has examined sixteen witnesses [P.W.1 to P.W.16] and marked 13 documents [Ex.P1 to Ex.P13].164 Cr.P.C. Statement of the victim was marked as Ex.P2. School Certificate of the victim was marked as Ex.P5 and her Medical Certificate was marked as Ex.P6. The evidence of P.W.1 corroborated by the evidence of P.W.11. The prosecution has proved the case beyond all reasonable doubts. The trial Court rightly convicted the petitioner and prayed the petition to be dismissed.

5.It is seen that the petitioner has paid the fine amount. The judgment was passed on 30.12.2020 and the petitioner is in custody for the past 62 days and there are some arguable points for consideration in the appeal. The Criminal Appeal is not likely to be taken up for final hearing in the near future. Hence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner is ordered to be released on bail on the following conditions:



(i) the petitioner is directed to execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Fast Track Mahila Court, Theni;

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal.

sd/-
01/03/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1 THE JUDGE, FAST TRACK MAHILA COURT, THENI.
- 2 THE INSPECTOR OF POLICE, VEERAPANDI POLICE STATION, VEERAPANDI, THENI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO: THE SECTION OFFICER, CRIMINAL SECTION, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.AJMAL ASSOCIATES Advocate SR.No.1678

ORDER
IN
CRL MP(MD) No.770 of 2021 IN
Crl.A.(MD) No.48 of 2021
Date : 01/03/2021

LS
MS/PN/SAR-1/03.03.2021/3P.7C