



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

Tuesday, the Sixteenth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.768 of 2021
IN
CRL.A(MD) .NO.47 OF 2021

ALAGARSAMY

... APPELLANT/ACCUSED NO.1

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
USILAMPATTI TOWN POLICE STATION,
MADURAI DISTRICT.
CRIME.NO. 165 OF 2014.

... 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 of imprisonment imposed by the Learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act Madurai in S.C.No.16 of 2014 dated 29.09.2020 and enlarge the petitioner/Appellant on bail, pending disposal of the above Criminal Appeal.

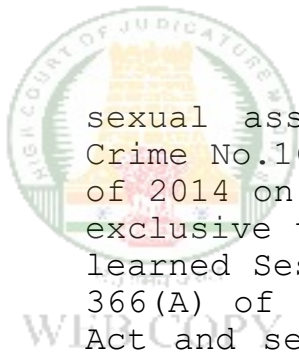
PRAYER IN CRL.A(MD) .NO.47 OF 2021

Pleased to set aside the Judgment and Conviction dated 29.9.2020 by the learned Sessions Judge Special Court for exclusive trial of cases under POCSO Act, Madurai in Spl.SC.No.16 of 2014 and acquit 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 M/S.S.AROKIYA SELVA RAMESH, Advocate for the petitioner and of MRS.S.BHARATHI, Government 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 learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai in Spl.S.C.No.16 of 2014 dated 29.09.2020, till the disposal of the appeal.

2.The case against the petitioner is that on 10.05.2014, the petitioner and others kidnapped the victim girl and had committed



sexual assault. A case was registered against the petitioner in Crime No.165 of 2014 and the same was taken on file as Spl.S.C.No.16 of 2014 on the file of the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Madurai. After trial, the learned Sessions Judge found the petitioner not guilty under Section 366(A) of IPC but convicted the petitioner under Section 4 of POCSO Act and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo one year rigorous imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner preferred an appeal in Crl.A.(MD)No.47 of 2021. Along with the appeal, the petitioner filed the application for suspension of sentence.

3.On the side of the petitioner, it is stated that the petitioner was acquitted under Section 366(A) of IPC. The petitioner and the victim fell in love with each other and they eloped and married. At the time, the petitioner was not aware that the victim is only 16 years old. There are much more points for consideration in the appeal and prayed the sentenced imposed upon the petitioner is to be suspended.

4.On the side of the respondent, it is stated that the medical certificate of the victim was marked as Ex.P6. The accident register copy was marked as Ex.P5. The age certificate of the victim was marked as Ex.P11. The victim is minor at the time of occurrence. There is no question of love affair at that age. The prosecution has examined 13 witnesses and marked 13 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody from 29.09.2020 onwards that is for the past six months and there are 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 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 Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Madurai.

(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 their valid identity card 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 further orders.

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sd/-
16/03/2021

/ TRUE COPY /

/ /2021

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

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, MADURAI.
- 2 THE INSPECTOR OF POLICE
USILAMPATTI TOWN POLICE STATION,
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.S.AROKIYA SELVA RAMESH, Advocate SR.No.2186

ORDER
IN
CRL MP(MD) No.768 of 2021
IN
CRL.A(MD).NO.47 OF 2021
Date :16/03/2021

NR/PN/SAR-IV(18.03.2021) 3P:6C