



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.947 of 2021
in
Crl.A.(MD)No.56 of 2021

GNANASEKARAN

... PETITIONER/ APPELLANT

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKKOTTAI.
CRIME NO.6/2018

... RESPONDENT/RESPONDENT

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, Mahila Neethimandram, Pudukkottai in Spl.S.C.No.25 of 2018 by the judgment dated 18/01/2021 pending disposal of the above said Criminal Appeal.

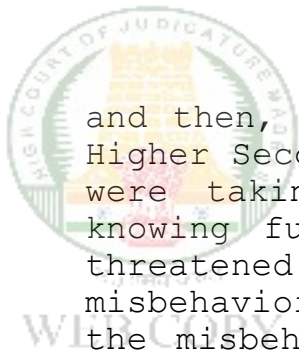
Prayer in Crl.A.(MD)No.56 of 2021:

To call for the records and set aside the Judgment and Conviction dated 18.01.2021, by the learned Sessions Judge, Mahila Neethimandram, Pudukkottai in Spl.S.C.No.25 of 2018 and acquit the Appellants.

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.A.PRABHA, 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 Sessions Judge, Mahila Neethimandram, Pudukkottai, in Special S.C.No.25 of 2018 dated 18.01.2021, till the disposal of the appeal.

2.The case against the petitioner is that A1 is the Teacher and A2/ petitioner herein is the Head Master in the Government Panchayat School, Pudupatti. The daughter of the defacto complainant, who is aged about 9 years was studying in the School up to fifth standard



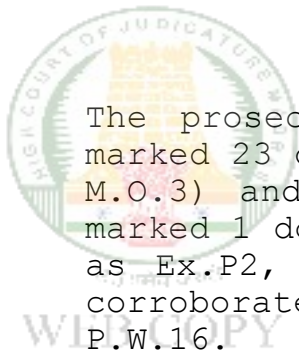
and then, she was admitted in sixth standard in a Government Union Higher Secondary School. In the previous School, where the accused were taking classes, A1 used to sexually harass the children, knowing fully well that the children are below 10 years and he threatened the children not to let their parents know about the misbehavior of the accused. The petitioner / A2 failed to report the misbehavior of A1 to his superior officer and he abetted the offence committed by A1. A case in Crime No.6 of 2018 was registered by the respondent police against the petitioner/ A2 and another/A1. The same was taken on file as Special S.C.No.25 of 2018 on the file of the Sessions Judge, Mahila Court (Fast Track Court), Pudukkottai District. The Mahila Court, Pudukkottai District, found the petitioner /A2 and another /A1 guilty vide judgment dated 18.01.2021. The details of the punishments are as follows:

Accused	Under Section	Punishment
A1	9(1) r/w.10 (3counts) of POCSO Act.	7 years RI each count and Rs.5,000/- fine, each in default of fine, two months simple imprisonment each
	9(m) r/w.10 (6counts) of POCSO Act.	7 years RI each count and Rs.5,000/- fine, each in default of fine, two months simple imprisonment each
	506(i) of IPC	Two years rigorous imprisonment
A2	21(2) of POCSO Act	One year RI and Rs.5,000/- fine, in default of fine, two months simple imprisonment

3. As against the said conviction and sentence, the petitioner / A2 has preferred an Appeal in Crl.A.(MD)No.56 of 2021. Along with the Appeal, he has filed the present application for suspension of sentence pending disposal of the said Appeal.

4.On the side of the petitioner, it is stated that the petitioner herein is arrayed as A2 in the case and the allegation against the petitioner/A2 is that the petitioner/A2 as the Assistant Head Master has failed to forward the complaint to the superior officer. The petitioner was only the Assistant Head Master and at the time of occurrence, he was working only as Head Master in-charge. He may be negligent in duty but the petitioner was wrongly found guilty under Section 21(2) of POCSO Act. There are much more points for argument in the main appeal and prayed the sentence to be suspended till the disposal of the appeal.

5.On the side of the prosecution, it is stated that the petitioner/A2 abetted the commission of the offence by A1.



The prosecution has examined 25 witnesses (P.W.1 to P.W.25) and marked 23 documents (Ex.P1 to P.23) and 3 material objects (M.O.1 to M.O.3) and the accused side has examined one witness (D.W.1) and marked 1 document (Ex.D1). 164 Statements of the victims were marked as Ex.P2, Ex.P4 to Ex.P9 Ex.P21 to Ex.P23. The evidence of P.W.1 corroborated with the evidence of P.W.2, P.W.3, P.W.11, P.W.14 and P.W.16. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioner and prayed the petition to be dismissed.

6.It is seen that the sentence against the petitioner was suspended by the trial Court and the petitioner was enjoying bail through out the trial. It is seen that there are some arguable points for the petitioner in the appeal and the Criminal Appeal is not likely to be taken up for final hearing in the near future and hence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7.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 Sessions Judge, Mahila Court (Fast Track Court), Pudukkottai District ;

(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/-
16/02/2021

/ 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, remains the responsibility of the advocate/litigant concerned.

<https://hccs.csb.judg.in/hccsweb>



TO

1 THE SESSIONS JUDGE,
MAHILA COURT (FAST TRACK COURT),
PUDUKKOTTAI DISTRICT.

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

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

+1 CC to Mr.P.KANDASAMY, Advocate (SR-1107[I] dated 17/02/2021)

ORDER

IN

CRL MP(MD) No.947 of 2021 in
Crl.A.(MD)No.56 of 2021

Date :16/02/2021

Ls

MS/PN/SAR-2/22.02.2021/4P.5C