



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

Monday, the Fifteenth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.1157 of 2021

IN

CRL A(MD)No.293 of 2020

MOHANRAJ

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
PALLAVIDUTHI POLICE STATION, (I/C)
THOGAMALAI POLICE STATION,
KARUR DISTRICT.
CRIME NO.143/2018

...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 Additional Sessions Court, Karur in Spl.S.C.No.22/2018 by the judgment dated 28.11.2018 and enlarge the petitioner / accused on bail, pending disposal of the above said Criminal Appeal.

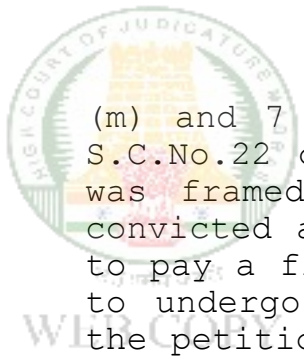
PRAYER IN CRL A(MD)No.293 of 2020:

Pleased to set aside the Judgment and Conviction dated 28.11.2018 by Additional Sessions Judge, Karur in Spl.S.C.No.22 of 2018 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 Mr.G.KARUPPASAMY PANDIAN, Advocate for the petitioner and of Mr.BHARATHI KANNAN, 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 Additional Sessions Judge, Karur, in Special S.C.No.22 of 2018, dated 28.11.2018, till the disposal of the appeal.

2.The case against the petitioner is that on 04.06.2018 at 03.00 pm, the petitioner sexually misbehaved with a minor girl. A case was registered against the petitioner in Crime No.143 of 2018, by the respondent police and charge sheet was filed under Sections 5



(m) and 7 of POCSO Act and the same was taken on file as Special S.C.No.22 of 2018 by the Additional Sessions Judge, Karur. Charge was framed under Section 7 of POCSO Act and the petitioner was convicted and sentenced to undergo one year simple imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo further period of three months simple imprisonment and the petitioner was directed to pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the victim / P.W.2, as compensation under Section 357 (A) and 33 (8) of POCSO Act. Against the conviction and sentence, the petitioner filed an appeal in Crl.A.(MD)No.293 of 2020. Along with the appeal, the petitioner preferred the present application for suspension of sentence.

3.On the side of the petitioner, it is stated that almost 1/2nd of the entire conviction period was over. It is stated that there is no external injury to the victim. The first complaint lodged by the complainant was suppressed by the police. There is a delay in F.I.R. Already this Court has dismissed the earlier petition filed by the petitioner for suspension of sentence. However, liberty was given to the petitioner for filing another petition on change of circumstances. The petitioner is in custody for the past five months and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the respondent, it is stated that the victim is a 10 years old female child. Medical evidence and the statement of the doctor corroborated with the evidence of P.W.1, who is the mother of the victim. The accident register copy was marked as Ex.P4 and the medical report which was marked as Ex.P5 also corroborated with the evidence of P.W.1. Under Section 7 of POCSO Act, the intention itself is sufficient. There is no necessity for corroboration of a medical evidence. It is further stated that the petitioner was granted suspension of sentence by the trial Court, but he failed to file any petition before the Court. NBW was issued to the petitioner and he was arrested on 04.09.2020 and he was in custody from 04.09.2020, not from the date of judgment and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody from 04.09.2020 onwards I.e. for the past five months. It is stated that the petitioner was already in custody for two months at the time of trial. The total period of conviction is one year. Out of which, the petitioner has already undergone seven months. In view of above, this Court is inclined to grant suspension of sentence to the petitioner.

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 Additional Sessions Judge, Karur.

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(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 the disposal of the appeal or until further orders.

sd/-
15/02/2021

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

TO

- 1.THE ADDITIONAL SESSION JUDGE, KARUR.
- 2.THE INSPECTOR OF POLICE,
PALLAVIDUTHI POLICE STATION, (I/C)
THOGAMALAI POLICE STATION,
KARUR DISTRICT.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.1157 of 2021
in
CRL A(MD)No.293 of 2020
Date :15/02/2021

MRN
TK/VR/SAR.2/16.02.2021/3P/5C