



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

Wednesday, the Tenth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL.MP(MD).No.1041 of 2021
in
CRL.A.(MD).NO.62 OF 2021

1 VICKY @ VIGNESH
2 VIGNESH

... PETITIONERS/APPELLANTS

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ADIRAMPATTINAM POLICE STATION,
ADIRAMPATTINAM, THANJAVUR DISTRICT,
(CRIME NO. 270/2015)

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to enlarge the Petition on bail by SUSPENDING THE SENTENCE imposed upon him in Spl.S.C.No. 32/2019 on the file of the Learned Sessions Judge (Special Court for Trial of POCSO Act cases) Thanjavur, Thanjavur District dated 07.01.2021 pending disposal of the main Criminal Appeal.

Prayer in CRL.A.(MD).NO.62 OF 2021:

Pleaded to call for the records in Spl.S.C.No.32 of 2019 on the file of the Learned Sessions Judge(Special Court for Trial of POCSO Act cases)Thanjavur, Thanjavur District and set aside the judgment dated 07.01.2021 and Acquit the Appellants of the Charge leveled against them.

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.A.THIRUVADI KUMAR, Advocate for the petitioners and of Mrs.S.Bharathi, Government Advocate on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge (Special Court for Trial of POCSO Act Cases), Thanjavur, Thanjavur District in Spl.S.C.No.32 of 2019 dated 07.01.2021 and to enlarge the petitioners on bail, till the disposal of the appeal.



2.The allegation against the petitioners is that on 17.08.2015, at 03.00 p.m., the petitioners waylaid a minor girl. A1 to A4 committed sexual harassment on the victim girl. A3 took photograph of the girl. A2 threatened the girl that he will upload the photograph on internet. A case in Crime No.270 of 2015 was registered against the petitioners and the same was taken on file as Spl.S.C.No.32 of 2019 before the learned Sessions Judge, (Special Court for trial of POCSO Act Cases), Thanjavur. After trial, the petitioners were found guilty under Section 6 of POCSO Act and was sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) in default to undergo two months simple imprisonment. The second petitioner was found guilty under Section 506(i) of IPC (1 count) and was sentenced to undergo six months rigorous imprisonment for each count and to pay a fine of Rs.500/- (Rupees Five Hundred only) for each count in default to undergo one month simple imprisonment for each count. Against the conviction and sentence imposed by the trial Court, the petitioners have preferred an appeal in Crl.A.(MD)No.62 of 2021. Along with the appeal, they have filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioners, it is stated that the occurrence took place on 17.08.2015. The complaint was lodged on 23.08.2015. The delay of six days was not explained by the prosecution. The evidence of P.W.6, Doctor reveals that there was no external injuries on the victim. P.W.2, the mother of the victim is an interested witness and she has deposed that on the instigation of P.W.3, the complaint was lodged. The occurrence was said to have taken place in a busy locality. Ex.P15, AIR copy and the evidence of Doctor reveals that there is no rape committed on the victim. The age of the victim was not proved by the prosecution. The evidence of the Headmaster and the records, Ex.P32 and Ex.P33 are not conclusive. The petitioners are in custody for the past two months and prayed the sentence imposed upon the petitioners is to be suspended.

4.On the side of the respondent, it is stated that the offence is serious in nature and is against the society. The 164 statement of the victim was marked as Ex.P1. The accident register was marked as Ex.P15. The medical certificate was marked as Ex.P16 to Ex.P19. The prosecution has examined 16 witnesses and marked 33 documents and marked 15 material objects. The prosecution has proved the case beyond reasonable doubts and prayed the petition to be dismissed.

5.It is seen that the allegations imposed on the petitioners are serious in nature and considering the short period of incarceration, this court is not inclined to suspend the sentence imposed on the petitioners at the present stage.



6.Hence, this petition is dismissed with liberty to the petitioners to file fresh petition for suspension of sentence on change of circumstances.

sd/-
10/03/2021

/ TRUE COPY /

WEB COPY

/ /2021

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

TO

- 1 THE SESSIONS JUDGE,
(SPECIAL COURT FOR TRIAL OF POCSO ACT CASES)
THANJAVUR, THANJAVUR DISTRICT.
- 2 THE INSPECTOR OF POLICE
ADIRAMPATTINAM POLICE STATION,
ADIRAMPATTINAM, THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
TIRUCHIRAPPALLI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP (MD) No.1041 of 2021
in
CRL.A. (MD) .NO.62 OF 2021
Date :10/03/2021

NR/PN/SAR-I (16.03.2021) 3P:5C