



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.1775 of 2021
in
CRL A(MD)No.102 of 2021

JEYARAJ

... PETITIONER/APPELLANT/
ACCUSED No.1

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
THOGAMALAI POLICE STATION,
INVESTIGATION OFFICER,
KARUR DISTRICT.
CRIME NO.159 OF 2017

... 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 imposed in Judgment dated 23.10.2020 made in Special S.C.No.8 of 2018 on the file of the Sessions Judge, Additional Sessions Court, Karur and enlarge the Appellant on bail.

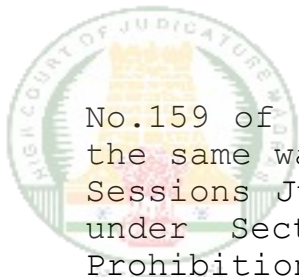
PRAYER IN CRL A(MD)No.102 of 2021:

To call for records and set aside the Judgment dated 23.10.2020 made in Special S.C.No.8 of 2018 on the file of the Sessions Judge, Additional Sessions Court, Karur.

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.V.MUTHUSAMUNDEESWARAN, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor 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 S.C.No.8 of 2018 dated 23.10.2020, till the disposal of the appeal.

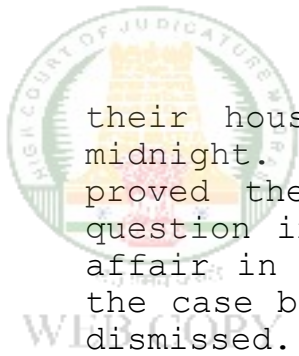
2.The case against the petitioner is that the petitioner kidnapped a 17 years old girl. The petitioners and others conducted a child marriage and the petitioner committed rape. A case in Crime



No.159 of 2017 was registered against the petitioner and others and the same was taken on file as S.C.No.8 of 2018 before the Additional Sessions Judge, Karur. After trial, the petitioner was found guilty under Sections 342, 363 and 506(i) of IPC and Section 9 of Prohibition of Child Marriage Act and Section 5(n)6 of POCSO Act. The petitioner was sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment under Section 363 of IPC and he was sentenced to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment under Section 342 of IPC and he was sentenced to undergo two months rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months simple imprisonment under Section 9 of Prohibition of Child Marriage Act and he was sentenced to undergo 20 years rigorous imprisonment and to pay Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment under Section 5 (n) 6 of POCSO Act and he was sentenced to pay Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment under Section 506(i) of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner has preferred an appeal in Crl.A.(MD)No.102 of 2021. Along with the appeal, he has filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the age of the victim is 17 ½ years. The victim and the petitioner are lovers. Even in the FIR, the father of the victim has stated that there was love affair between the victim and the petitioner. Actually she eloped from the house. After knowing her age, the petitioner sent her back to home. There was previous enmity between both the families. A false case was foisted against the petitioner. The allegation against the petitioner is that he kidnapped the victim in a two wheeler and then in a car. No enquiry was conducted regarding the particulars of the two wheeler and the car. The thalli which was alleged to have been tied by the petitioner was not seized by the police. A13 was acquitted by the Court. The sentence against all other accused was already suspended by this Court. The medical evidence is not supporting the case of prosecution. All the witnesses are villagers of the victim. The villagers of the petitioner are not examined. Though the place of occurrence is petitioner's village, no witness was examined by the Police in that locality. The petitioner is in custody for the past of five months and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the prosecution has examined 22 witnesses and marked 24 documents and four material objects. 164 statement of the victim was marked as Ex.A21. The evidence of P.W.1 and P.W.2 clearly proves the case of prosecution. The child was abducted for marriage is proved by the



their house. The child marriage was conducted on 02.04.2017 at midnight. The evidence of P.W.1 and P.W.6, P.W.3, P.W.4 and P.W.9 proved the child marriage. The consent of the victim is not a question in the case of a minor girl. There is no question of love affair in the case of a minor and that the prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.The allegation against the petitioner is serious in nature. The petitioner is in custody for the past five months. The learned counsel for the petitioner has raised substantial points in the memorandum of revision, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the period of incarceration and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, 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, Additional Sessions Court, Karur.

(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.

sd/-
08/03/2021

/ TRUE COPY /

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

TO

1.THE SESSIONS JUDGE,
ADDITIONAL SESSIONS COURT, KARUR.

<https://hcservices.ecourts.gov.in/hcservices/>



2.THE INSPECTOR OF POLICE
THOGAMALAI POLICE STATION,
INVESTIGATION OFFICER,
KARUR DISTRICT.

3.THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

+1CC TO Mr.S.V.MUTHUSAMUNDEESWARAN, Advocate, SR NO.1949

ORDER
IN
CRL MP (MD) No.1775 of 2021
in
CRL A (MD) No.102 of 2021
Date :08/03/2021

MRN
TK/VR/SAR.2/09.03.2021/4P/6C