



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

Friday, the Twenty Sixth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2222 of 2021
in
Crl.A.(MD)No.134 of 2021

VALAN

... PETITIONER/
APPELLANT/ SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
MANAMADURAI,
SIVAGANGAI DISTRICT.
CRIME NO.29 OF 2015.

... 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 on the petitioner/appellant /sole accused namely Valan. S/o.Anthony by the learned Mahila Fast Track Court, Sivagangai by its judgment in Spl.S.C.No.35 of 2016 dated 31/10/2019 and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

Prayer in Crl.A.(MD)No.134 of 2021:

To call for the records in Spl.S.C.No.35 of 2016 dated 31.10.2019 on the file of the the learned Mahila Fast Track Court, Sivagangai and set aside the same.

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.M.JEGADEESH PANDIAN, 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 Judge Mahila Fast Track Court, Sivagangai, in Spl.S.C.No.35 of 2016 dated 31.10.2019 till the disposal of the appeal.



2.The case against the petitioner is that he was working as the Headmaster in Maranadu Panchayat Union Middle School. He misbehaved with three minor boys. A case was registered against the petitioner in Crime No.29 of 2015 and the same was taken on file as Spl.S.C.No.35 of 2016 before the learned Judge, Mahila Fast Track Court, Sivagangai. The learned Judge found the petitioner guilty under Section 10 r/w. 9(f)(m) of POCSO Act (1 count) and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo a further period of one year rigorous imprisonment. Against the said conviction and sentence imposed upon the petitioner, the petitioner has preferred an appeal before this Court in Crl.A.(MD)No.134 of 2021. Along with the appeal, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that the complaint was lodged by P.W.1, Assistant Education Officer. P.W.12, who received the complaint has stated that even 15 days prior to the date of complaint, he received complaints from the parents of the victims and those complaints were suppressed by the prosecution. The trial Court has acquitted the petitioner for the offence under Section 10 r/w. 9(f)(m) of POCSO Act (two counts) and convicted the petitioner under Section 10 r/w. 9(f)(m) of POCSO Act (1 count). According to the prosecution, the occurrence took place inside the separate bathroom of the Headmaster. But in Ex.P6, there was no mentioning about the separate bathroom for the headmaster. No witnesses has given evidence as to the place, time and date of occurrence. The petitioner is in custody from 13.10.2019 I.e, for the past fifteen months. There are much more points for consideration in the appeal and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the position of the petitioner is Headmaster in the School. The Assistant Education Officer has given the complaint and he was examined as P.W.1. P.W.2 is the Vice President of the village Panchayat. P.W.4 and P.W.3 are teachers. The victim boys are at the age of 10 years. 164 statements recorded from the P.W.6 and P.W.8 were marked as Ex.P3 and Ex.P4. P.W.1, P.W.3, P.W.4 supported the case of prosecution. The prosecution has examined 12 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 for the past fifteen months and there are substantial points in the memorandum of appeal, which require a detailed consideration by this Court. 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



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 Judge, Mahila Fast Track Court, Sivagangai.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judge, Mahila Fast Track Court, Sivagangai, may obtain a copy of their valid identity card to ensure their identity card to ensure their identity.

(iii) the petitioner shall appear before the Trial Court daily at 10.30 a.m., until further orders.

(iv) if the aforesaid conditions are violated, this order automatically stands cancelled.

sd/-
26/03/2021

/ 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, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE JUDGE,
MAHILA FAST TRACK COURT,
SIVAGANGAI

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
MANAMADURAI,
SIVAGANGAI DISTRICT.



3 THE SUPERINTENDENT, CENTRAL PRISON,
MADURAI.

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

ORDER

IN

CRL MP(MD) No.2222 of 2021

IN CrI.A.(MD)No.134 of 2021

Date :26/03/2021

MRN

MS/VR/SAR-1/29.03.2021/4P.5C