



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2182 of 2021
in

CRL A(MD)No.155 of 2020

VISWASAM

... PETITIONER/APPELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
CRIME NO.19/2015

... 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 imposed on the petitioner by the learned Special Judge, (Protection of children from Sexual Offences cases) Virudhunagar District at Srivilliputhur in Spl.S.C.No.16 of 2016 by the Judgment dated 09.03.2020 and enlarge the petitioner on bail pending disposal of the above appeal.

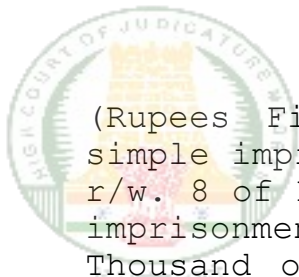
PRAYER IN CRL A(MD)No.155 of 2020:

Pleased to allow this appeal and set aside the judgment dated 09.03.2020 passed in Spl.S.C.No.16 of 2020 on the file of the Special Court(Protection of Children from Sexual Offences Cases) Virudhunagar District at Srivilliputhur.

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.N.PRAGALATHAN, Advocate for the petitioner 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 Special Judge, (Protection of Children from Sexual Offences Cases), Virudhunagar District, Srivilliputhur in Spl.C.C.No.16 of 2016 dated 09.03.2020, till the disposal of the appeal.

2.The case against the petitioner is that the petitioner was convicted under Section 342 of IPC and was sentenced to undergo 1 year simple imprisonment and also imposed a fine of Rs.5,000/-



(Rupees Five Thousand only) in default to undergo three months simple imprisonment and the petitioner was convicted under Section 7 r/w. 8 of POSCO Act and was sentenced to undergo four years rigorous imprisonment and also imposed a fine of Rs.15,000/- (Rupees Fifteen Thousand only) in default to undergo 9 months simple imprisonment and the petitioner was convicted under Section 506(i) of IPC and was sentenced to undergo two years simple imprisonment and also imposed a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner preferred an appeal in Crl.A.(MD)No.155 of 2020. Along with the appeal, the petitioner filed the application for suspension of sentence.

3.On the side of the petitioner, it is stated that P.W.3, who is one of the victims, turned hostile. Only based on the evidence of P.W.2, the trial Court convicted the petitioner. It is further stated that there is a land dispute between the parties. Only on that motive, the false case is foisted against the petitioner. The petitioner is in custody for the past one year and the petitioner is aged about 60 years and is having physical ailments, due to old age and prayed for suspension of sentence imposed on the petitioner till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the accused is a neighbor of the victim. The victim refused to go to the petitioner's house for attending tuition. Then only the victim's parents came to know that the petitioner abused the girl and subsequently, another girl was also harassed by the petitioner. The statements of the victim girls were recorded by the learned Judicial Magistrate No.I, Virudhunagar under Section 164 Cr.P.C. Four material objects were marked. Based on the documentary evidence and medical reports, the trial Court rightly convicted the petitioner. The case was proved by the prosecution beyond reasonable doubts and objected to grant the suspension of sentence to the petitioner.

5.The offence against the petitioner is serious in nature. The petitioner is in custody for the past one year. There are points for arguments in the appeal. Considering the period of incarceration, 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 Special Judge, (Protection of Children from Sexual Offence Cases),

<https://hcservices.courts.gov.in/hcservices/> District at Srivilliputhur.



(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.

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(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/-
15/03/2021

/ TRUE COPY /

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

TO

1.THE SPECIAL JUDGE,
(PROTECTION OF CHILDREN FROM SEXUAL OFFENCES CASES),
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.

3.THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to Mr.N.PRAGALATHAN Advocate SR.No.2113

ORDER
IN
CRL MP(MD) No.2182 of 2021
in
CRL A(MD)No.155 of 2020
Date :15/03/2021

MRN
TK/PN/SAR.2/15.03.2021/3P/6C