



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

Friday, the Thirtieth day of April Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2636 of 2021
in
CRL.A(MD)No.164 of 2021

RAMKRISHNAN

... APPELLANT/ACCUSED NO.2

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
CRIME NO. 11/2015.

... 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 against the petitioner in order in Spl.S.C.No.7 of 2016 on the file of the Honourable Special Court for the Protection of Child from Sexual Offences Act 2012, Srivilliputhur, Virudhunagar District dated 10/01/2020 and release the Petitioner on bail till the disposal of the appeal.

Prayer in CRL.A(MD)No.164 of 2021:

To call for the entire records connected to the judgment in Spl.S.C.No.7 of 2016 on the file of the Honourable Special Court for the Protection of Child from Sexual Offences Act 2012, Srivilliputhur, Virudhunagar District dated 10/01/2020 and set aside the conviction and sentence imposed against 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.ALAGUMANI.R, Advocate for the appellant and of MR.A.ROBINSON, Government Advocate (Crl. Side) on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the conviction and sentence order passed by the Special Court for the Protection of Child from Sexual Offences Act, 2021, Srivilliputhur, Virudhunagar District, dated 10.01.2020 and enlarge the petitioner/A2 on bail, till the disposal of the criminal appeal.



2.The case of the prosecution is that on 12.07.2015 at about 1.00 pm, A1 alleged to have taken the sister's daughter of the de-facto complainant under his custody and had sexual assault with her and bite her lip, at the instigation of the petitioner/A2.

3.The learned counsel appearing for the petitioner/A2 submitted that the petitioner/A2 was convicted by the trial court for the offence under section 5(i)(m) r/w 6 r/w 16, 17 of the Protection of Child from Sexual Offences Act, 2012 and sentenced him to undergo 10 years RI and imposed a fine of Rs.10,000/-, in default to undergo one year simple imprisonment.

4.The learned counsel appearing for the petitioner/A2 further submitted that the victim statement does not disclose about the participation of the petitioner/A2 relating to the occurrence and there was a previous motive between PW1 and the petitioner/A2 and the entire case against the petitioner/A2 has been instigated to take vengeance on the petitioner/A2 and no proper reason has been stated for the delay in registering the case and the reason for the delay in sending the FIR to the trial court and that the petitioner/A2 is an innocent person and he has been falsely implicated in this case and that there are several infirmities in the prosecution case and there are contradictions in material particulars in the evidence of the prosecution witnesses and that the petitioner/A2 is in jail since 10.01.2020 and prays for suspension of sentence.

5.It is submitted by the learned Government Advocate (Criminal side) appearing for the respondent/State that the trial court has rightly convicted the petitioner/A2 and there are enough materials available on record against the petitioner/A2 and there is no infirmity in the prosecution case and prays for dismissal of this petition.

6.This court has carefully considered the rival contentions put forth on either side and also perused the materials available on record.

7.The learned counsel for the petitioner/A2 pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and the petitioner/A2 is in jail since 10.01.2020 and as such, this court is of the considered view that the petitioner/A2 herein is entitled to the relief of grant of suspension of sentence with stringent conditions.

8.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner/A2 is directed to be enlarged on bail on

<https://hccourt.mp.gov.in/services> he shall execute a bond for a sum of Rs.10,000/-



(Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special POCSO Sessions Judge, Srivilliputhur, Virudhunagar District and on further condition that the petitioner/A2 shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm pending appeal.

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sd/-
30/04/2021

/ TRUE COPY /

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

TO

- 1 THE JUDGE,
SPECIAL COURT FOR PROTECTION OF CHILD
FROM SEXUAL OFFENCES,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT.
- 2 THE SPECIAL POCSO SESSIONS JUDGE,
SRIVILLIPUTHUR, VIRUDHUNAGAR DISTRICT
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT.
- 4 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.2636 of 2021
in
CRL.A(MD)No.164 of 2021
Date :30/04/2021

er
JM/VR/SAR I/03.05.2021/3P/6C