



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.2419 of 2021
in Crl.A.(MD)No.146 of 2021

GOBAL

... PETITIONER/ 2nd APPELLANT

Vs

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

... RESPONDENT/ RESPONDENT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspending the sentence imposed upon the petitioner in Spl.S.C.NO.32 of 2019 on the file of the learned Session Judge, (Special Court for Trail OF POCSO Act Cases), Thanjavur, Thanjavur District by judgment dated 07/01/2021 and enlarge the petitioner on bail pending disposal of the main Criminal Appeal.

Prayer in Crl.A. (MD)No.146 of 2021:

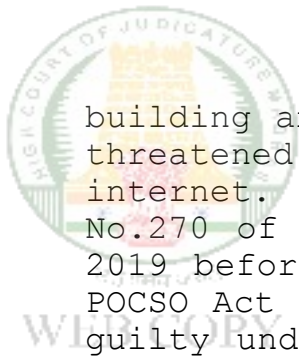
To call for the records and set aside the judgment dated 07.01.2021 passed in S.C.No.32 of 2019 on the file of the learned Session Judge, (Special Court for Trail OF POCSO Act Cases), Thanjavur may deem fit proper in the circumstances of the case.

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.SASIKUMAR, 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 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 till the disposal of the appeal.

2.The case against the petitioner is that on 17.08.2015 at 03.00 p.m., when the victim girl was attending the nature's call, the petitioner and three others took the victim girl to a nearby

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building and they misbehaved with her and they took photographs and threatened the girl that they will upload her photos in the internet. A case was registered against the petitioner in Crime No.270 of 2015 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. The learned Judge found the petitioner guilty under Section 6 of POCSO Act and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only), in default, to undergo a further period of two months simple 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.146 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 petitioner is A4 in the case. P.W.2 was the building owner. He was cited as an eye witness by the prosecution. But he turned hostile. He was not available in the station at the time of occurrence and he was at Chennai at the relevant period. There is a delay of six days in registering the complaint. The Doctor did not support the case of prosecution. There was no injury on the body of the victim. P.W.6 has deposed that there was no intercourse. There was previous enmity between the accused and P.W.3. Only on the instigation of P.W.3, a false case was registered. There is contradiction regarding the person who accompanied the complainant to the police station. The petitioner is in custody for the past two years and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that there is specific overt act against the petitioner. The victim girl is 13 years old. The mobile phone used by the petitioner was marked as M.O.9. The statement of the victim under Section 164(5) of Cr.P.C., was marked as Ex.P1. The copy of the accident register of the victim was marked as Ex.P15. The medical certificate of the petitioner was marked Ex.P19. The prosecution has examined 16 witnesses and marked 33 documents and marked 15 material objects 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 two years and there are substantial points in the memorandum of appeal, which require a detailed consideration by this Court. The Criminal Appeal is no 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 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



sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Sessions Judge, (Special Court for Trial of POCSO Act Cases), Thanjavur District.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge, Special Court for Trial of POCSO Act Cases, (Special Court for Trial of POCSO Act Cases), Thanjavur District, 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 SESSION JUDGE, (SPECIAL COURT FOR TRAIL OF POCSO ACT CASES), THANJAVUR, THANJAVUR DISTRICT.
- 2 THE INSPECTOR OF POLICE
ADIRAMAPATTINAM POLICE STATION,
ADIRAMAPATTINAM, THANJAVUR DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL MP(MD) No.2419 of 2021
IN Cr1.A.(MD)No.146 of 2021
Date :26/03/2021

Mrn
MS/PN/SAR-1/29.03.2021/3P.5C

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