



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Monday, the Sixteenth day of August Two Thousand and Twenty One
PRESENT

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The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.2637 of 2021

IN

CRL A(MD) No.166 of 2021

S.VELLAIPANDIAN

... PETITIONER/APPELLANT/ACUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT
CRIME NO.3/2018

... 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 upon the petitioner passed by the Learned Special Court(POCSO Act Cases,) Srivilliputhur, Virudhunagar District in Spl.S.C.No.24/2018 dated 23/02/2021 and enlarge him on bail pending disposal of the above Crl.A.

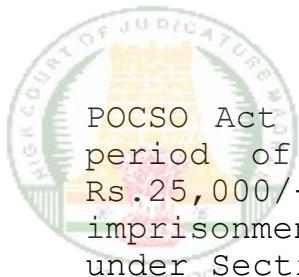
PRAYER IN CRL A(MD)No.166 of 2021:

To call for the records pertaining to the Judgment passed by the learned Special Court(POCSO Cases) Srivilliputhur, Virudhunagar District in Spl.S.C.No.24/2018 dated 23.02.2021 and acquitting the Appellant/Accused 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.KARUNANITHI, Advocate for the petitioner and of Mr.RMS.SETHURAMAN, Counsel for State (crl.side), the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend the sentence imposed in Spl.S.C.No.24 of 2018, dated 23.02.2021 by the Special Court (POCSO Act Cases), Srivilliputhur, Virudhunagar District and enlarge the petitioner/accused on bail pending disposal of the Criminal Appeal.

2.The learned counsel appearing for the petitioner submitted that the petitioner has been convicted by the learned trial judge, for the alleged offence under Section 11(1) r/w 12 (2 counts) of



POCSO Act and sentenced him to undergo rigorous imprisonment for a period of three years for each count and to pay a fine of Rs.25,000/- for each count, in default to undergo simple imprisonment for a period of six months and for the alleged offence under Section 11(4) r/w 12 (2 counts) of POCSO Act and sentenced him to undergo rigorous imprisonment for a period of three years for each count and to pay a fine of Rs.25,000/- for each count, in default to undergo simple imprisonment for a period of six months in Spl.S.C.No.24 of 2018 on the file of the Special Court (POCSO Act Cases), Srivilliputhur, Virudhunagar District.

3.It is submitted by the learned counsel appearing for the petitioner that there are several infirmities in the prosecution case and further there are contradictions in material particulars between the evidence of the prosecution witnesses and he prayed for suspension of sentence. He further submitted that as per direction of this Court the petitioner has drawn the Demand Draft in favour of the victims in D.D.Nos.765496, 765497, 765518 and 765519 on 10.08.2021 and 13.08.2021 respectively and handed over to the learned Government Advocate and filed a memo to that effect.

4.It is submitted by the learned counsel appearing for State Government (Crl.side) that there are enough materials available on record against the petitioner as per the evidence adduced by the prosecution and there is no infirmity in the prosecution case and he strongly opposed to grant suspension of sentence.

5.This Court has carefully considered the rival contentions put forward by either side and also perused the materials available on record.

6.The learned counsel appearing for the petitioner pointed out that 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 further the criminal appeal is not likely to be taken up for final hearing in the near future and as such, this court is of the considered view that the petitioner herein is entitled to the relief of grant of suspension of sentence.

7.Accordingly, the suspension of sentence petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal on the following conditions:-

(i)the petitioner is directed to be enlarged on bail on condition that the petitioner 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 Mahila Court (Fast Track), Srivilliputhur, Virudhunagar District;



(ii) and on further condition that the petitioner shall appear before the said Court daily at 10.30 a.m. pending appeal.

sd/-
16/08/2021

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/ /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 SPECIAL JUDGE,
(POCSO ACT CASES), SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.
 2. THE JUDGE,
MAHILA COURT (FAST TRACK), SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.
 3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
 4. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
VIRUDHUNAGAR,
VIRUDHUNAGAR DISTRICT
 5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.KARUNANITHI.M. Advocate SR.No.5460

ORDER IN

CRL MP(MD) No.2637 of 2021
IN
CRL A(MD) No.166 of 2021
Date :16/08/2021

SA/VR/SAR.1/17.08.2021/3P/7C