



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

Tuesday, the Thirtieth day of March Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.2752 of 2021
in
Crl.A.(MD)No.171 of 2021

PALANI @ PALANICHAMY

... PETITIONER/ SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
NATHAM CIRCLE, SANARPARTTI POLICE STATION,
DINDIGUL DISTRICT.
CRIME NO.03 OF 2016.

... 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 and release the petitioner on bail pending disposal of the main Criminal Appeal before this Hon'ble Court against the Judgment of the Hon'ble Sessions Judge, Fast Track Mahila Court, Dindigul in S.C.No.23 of 2016 dated 07.10.2020.

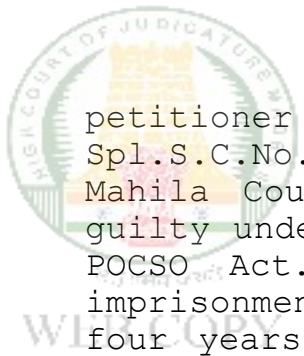
PRAYER IN Crl.A.(MD)No.171 of 2021:

To call for the entire records connected with the judgment rendered by the Hon'ble Sessions Judge, Fast Track Mahila Court, Dindigul in S.C.No.23 of 2016 dated 07.10.2020 and set aside the same and consequently acquit 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.R.PRAKASH, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor 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, Fast Track Mahila Court, Dindigul, in Spl.S.C.No.23 of 2016 dated 07.10.2020 till the disposal of the appeal.

2.The case against the petitioner is that by coercion, the petitioner has taken away the victim minor girl from her village and committed sexual assault. A case was registered against the



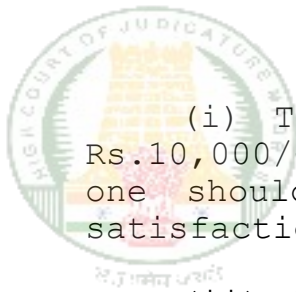
petitioner in Crime No.3 of 2016 and the same was taken on file as Spl.S.C.No.23 of 2016 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul. The learned Judge found the petitioner guilty under Sections 342 and 363 of IPC and Section 5(1) r/w. 6 of POCSO Act. He was sentenced to undergo six months rigorous imprisonment under Section 342 of IPC. He was sentenced to undergo four years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) in default to undergo two months simple imprisonment under Section 363 of IPC. He was sentenced to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default, to undergo six months simple imprisonment under Section 5(1) r/w. 6 of POCSO Act. Against the said conviction and sentence imposed upon the petitioner, the petitioner has preferred an appeal before this Court in Crl.A.(MD) No.171 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 victim girl is 17 years old. The petitioner and the victim girl had love affairs. P.W.6 and P.W.7 turned hostile. P.W.2 to P.W.5 are hearsay witnesses. The earlier complaint was suppressed by the police. The medical evidence did not support the case of the prosecution. All the witnesses are relatives of the victim and 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 only due to coercion, the victim who is minor, was taken away by the petitioner. On the guise of marriage, he abused the victim girl. The statement of the victim was recorded under Section 164(5) of Cr.P.C., and was marked as Ex.P2. The mother of the victim was examined as P.W.2. The school certificate of the victim was marked as Ex.P9. The medical reports were marked as Ex.P5, Ex.P6 and Ex.P8. If the suspension of sentence is granted to the petitioner, there is possibility for the petitioner to escape the clutches of law. The prosecution has examined 17 witnesses and marked 14 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 from 07.10.2020 onwards I.e. for the past five 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 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 Judicial Magistrate, Dindigul.

(ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Judicial Magistrate, Dindigul, may obtain a copy of their valid identity card to ensure their identity.

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

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

sd/-
30/03/2021

/ 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 SESSIONS JUDGE, FAST TRACK MAHILA COURT, DINDIGUL.

2 THE JUDICIAL MAGISTRATE, DINDIGUL.

3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
DINDIGUL DISTRICT.

4 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

5 THE INSPECTOR OF POLICE, NATHAM CIRCLE,
SANARPARTTI POLICE STATION, DINDIGUL DISTRICT.

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

ORDER IN
CRL MP(MD) No.2752 of 2021
IN CrI.A.(MD)No.171 of 2021
Date :30/03/2021

MRN

<https://hmcjcs.court.gov.in/cse/cases/3.2021/3P.7C>