



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

Monday, the Twenty Sixth day of July Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice T.KRISHNAVALLI

CRL MP(MD) No.3253 of 2021
in
Crl.A(MD)No.200 of 2021

G.RAJASH KANNAN

... APPELLANTS/ SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
UTHAMAPALAYAM POLICE STATION,
THENI DISTRICT.
(IN CRIME NO.53/2016)

... 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, Theni in Special S.C.19 of 2016 dated 09.03.2021.

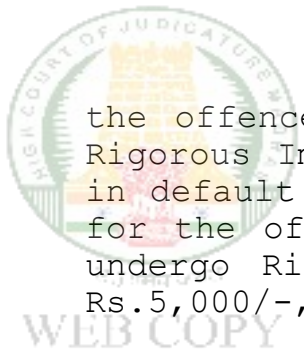
PRAYER IN Crl.A(MD)No.200 of 2021:

To call for the entire records connected with the judgment rendered by the Hon'ble Sessions Judge, Fast Track Mahila Court, Theni in Special S.C.19 of 2016 dated 09.03.2021 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.RMS.SETHURAMAN, Counsel for State Government on behalf of the Respondent, the court made the following order:-

This Criminal Miscellaneous Petition is filed to suspend sentence imposed against the petitioner by the Sessions Judge, Fast Track Mahila Court, Theni, in Special S.C No.19 of 2016, dated 09.03.2021 and release him on bail pending disposal of main Criminal Appeal.

2.The learned counsel appearing for the petitioner/Accused submitted that the petitioner was convicted by the trial court for



the offence under section 366 of IPC and sentenced him to undergo Rigorous Imprisonment for 2 years and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for a period 3 months and for the offence under section 6 of POCSO Act and sentenced him to undergo Rigorous Imprisonment for 10 years and to pay a fine of Rs.5,000/-, in default to undergo Simple Imprisonment for 6 months.

3.The learned counsel appearing for the petitioner further submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and that there are several infirmities in the prosecution case and there are contradictions in material particulars between the evidence of the prosecution witnesses and medical evidence did not support the prosecution and that the petitioner is in jail from 09.03.2021 and prays for suspension of sentence.

4.It is submitted by the learned counsel appearing for the State that the trial court on proper appreciation of evidence both oral and documentary, has rightly convicted the petitioner and there are enough materials available on record against the petitioner and there is no infirmity in the prosecution case and prays for dismissal of this petition.

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

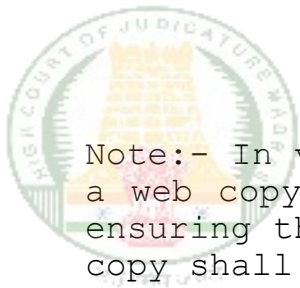
6.The learned counsel for the petitioner pointed out certain infirmities and inconsistencies in this case and also certain contradictions in material particulars. The fact remains that there are arguable points involved in this criminal appeal and further the criminal appeal is not likely to be taken 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 suspension of sentence.

7.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that 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 Judicial Magistrate, Theni and on further condition that the petitioner shall appear before the said court daily twice I.e., at 10.30 am and 5.00 pm, pending appeal.

sd/-
26/07/2021

/ 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.

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- TO
- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT, THENI.
 - 2 THE JUDICIAL MAGISTRATE, THENI.
 - 3 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI 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.3253 of 2021 in
Crl.A(MD)No.200 of 2021
Date :26/07/2021

er
MS/JC/SAR-3/28.07.2021/3P.6C