



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

Friday, the Twelfth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7166 of 2021

in

CRL A(MD) No.390 of 2021

BALASUBRAMANI @ SUBRAMANI ... PETITIONER/APPELLANT/SOLE ACCUSED

Vs

THE STATE REPRESENTED BY

THE INSPECTOR OF POLICE

B6, JAIHINDPURAM POLICE STATION (L AND O),
MADURAI DISTRICT.

CR.NO. 920 OF 2015.

... RESPONDENT/RESPONDENT/COMPLAINANT

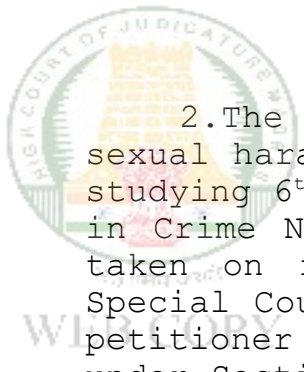
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence imposed on the Petitioner/Appellant/Accused in Spl.S.C.No.17 of 2017 on the file of the Learned Sessions Court for Exclusively Trial of Cases Under POCSO Act, Madurai vide judgment dated 9.10.2020 and enlarge him on bail pending disposal of the Appeal.

PRAYER IN CRL A(MD) No.390 of 2021:

Pleased to call for the records and set aside the order of conviction and sentence passed in Special S.C.No.17 of 2017 on the file of the Learned Sessions Court for exclusively Trial of Cases under POCSO Act, Madurai vide judgment dated 09.10.2020 and allow this appeal and acquit the Appellant/Accused from the charge leveled against him.

Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.KATHIRESAN.K, Advocate for the petitioner and of Mr.R.M.ANBUNITHI, Additional Public prosecutor on behalf of the Respondent, the Court made the following order:-

This petition has been filed to suspend the sentence imposed by the Sessions Court for Exclusive Trial of Cases under POCSO Act, Madurai, in Special S.C.No.17 of 2017, dated 09.10.2020, till the disposal of the appeal.



2.The case against the petitioner is that the petitioner caused sexual harassment to the victim, who is aged about 13 years and was studying 6th Standard. A case was registered against the petitioner in Crime No.920 of 2015 by the respondent police and the same was taken on file as Special S.C.No.17 of 2017 on the file of the Special Court for POCSO Act, Madurai. The Special Court, found the petitioner guilty under Section 5(1) r/w. Section 6 of POCSO Act and under Section 506(i) of I.P.C, vide judgment, dated 09.10.2020. The details of the punishments are as follows:

Accused	Under Section	Punishment
Sole accused	5(1) r/w. 6 of POCSO Act	10 years Rigorous Imprisonment and Rs.5,000/- fine, in default of fine, three months simple imprisonment
	506(i) of I.P.,C	2 years Rigorous Imprisonment

3. As against the said conviction and sentence, the petitioner / Sole accused has preferred an Appeal in Crl.A.(MD) No.390 of 2021. Along with the Appeal, he has filed the present application for suspension of sentence pending disposal of the said Appeal.

4.On the side of the petitioner, it is stated that the occurrence is said to have taken place on 05.09.2015, but, the complaint was lodged only on 06.09.2015. There is a delay in lodging the F.I.R. There is no external injury as per the medical evidence. The petitioner is in custody for the past one year and before the trial, he was in custody for three months and prayed the sentence to be suspended.

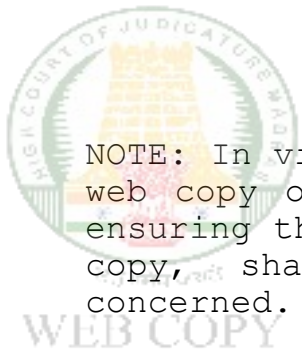
5.On the side of the prosecution, it is stated the age of the victim is 13 years and the petitioner is aged about 50 years, at the time of occurrence. The prosecution has examined 12 witnesses and marked 21 documents and 7 material objects. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioner and prayed the petition to be dismissed.

6.Considering the age of the victim and considering the nature of the offence, this Court is not inclined to suspend the sentence. Hence, this Petition is dismissed.

sd/-
12/11/2021

/ 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,
FOR EXCLUSIVELY TRIAL OF CASES UNDER POCSO ACT,
MADURAI.
- 2 THE INSPECTOR OF POLICE
B6, JAIHINDPURAM POLICE STATION (L AND O),
MADURAI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL MP(MD) No.7166 of 2021
in
CRL A(MD) No.390 of 2021
Date :12/11/2021

SS/JM/SAR-II/24.11.2021 : 3P/5C