



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

Wednesday, the Twenty Second day of September Two Thousand and
Twenty One
PRESENT

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The Hon`ble Mr.Justice V.BHARATHIDASAN
and
The Hon`ble Mrs.Justice J.NISHA BANU

Crl.M.P. (MD) .No.6431 of 2021
in
Crl.A. (MD) .No.365 of 2021

VINOTH ... APPELLANT /PETITIONER
Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
MUTHAIAHPURAM POLICE STATION,
THOOTHUKUDI DISTRICT.
(CRIME NO.116 OF 2016)

... RESPONDENT/ RESPONDENT

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 made in Spl.S.C.No.186 of 2019 dated 17.03.2021 on the file of the Special Court For Exclusive Trial of Cases under POSCO Act, Thoothukudi and enlarge them on bail pending disposal of the above appeal.

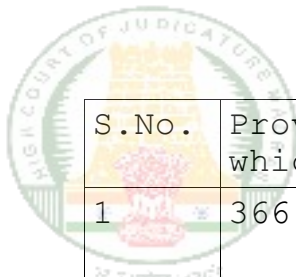
Prayer in Crl.A. (MD) .No.365 of 2021:

To call for the records and set aside the judgment and sentence passed in Spl.S.C.No.186 of 2019 dated 17.03.2021 on the file of the Special Court For Exclusive Trial of Cases under POSCO Act, Thoothukudi.

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.KARUPPASAMY PANDIAN, Advocate for Mr.D.ANBARASU, Advocate for the petitioner and of MR.A.THIRUVADI KUMAR, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by V.BHARATHIDASAN,J.)

The petitioner is the sole accused in Spl.S.C.No.186 of 2019, on the file of the Special Court for Exclusive Trial of Cases under POSCO Act, Thoothukudi. The petitioner was found guilty and convicted and sentenced as follows:-



S.No.	Provision under which convicted	Sentence of Imprisonment	Fine Amount
1	366(A) IPC	3 Years R.I.	Rs.3,000/-, in default, to undergo 3 months R.I.
2	493 IPC	3 Years R.I.	Rs.3,000/-, in default, to undergo 3 months S.I.
3	5(1) r/w 6 of POCSO Act.	Rigorous Imprisonment for Life	Rs.10,000/-, in default, to under one year R.I.

2. The case of the prosecution is that the victim girl is a minor, aged about 17 years. The petitioner kidnapped the victim girl, took her to Madurai and married her forcibly. Thereafter, he sexually assaulted her and hence, a complaint has been filed.

3. The trial Court, after considering the materials, convicted the accused and sentenced him as above. Challenging the conviction and sentence, the present appeal has been filed. Pending appeal, he seeks suspension of sentence.

4. Mr.Karuppasamy Pandian, the learned counsel appearing for the petitioner would submit that both the petitioner and victim girl loved with each other. It is not a case of kidnapping. Even the victim girl did not support the case of the prosecution. Without considering the same, the Trial Court convicted the petitioner/accused.

5. Mr.S.Ravi, the learned Additional Public Prosecutor appearing for the State, on instructions, would submit that the victim was minor at the time of occurrence. The petitioner kidnapped the victim girl, forcefully conducted marriage and also sexually assaulted her. Based on the complaint given by the parents of the victim girl, a case was registered against the petitioner. Considering the witnesses, the trial Court has rightly convicted the petitioner and there is no error in the Judgment.

6. We have considered the rival submissions made and perused the materials available on record.

7. From the perusal of the records it could be seen that it seems to be a love affairs between the petitioner and the victim girl. The evidence of the victim girl is also not fully supporting the case of the prosecution. Further, the petitioner is in jail for more than six months, he had no bad antecedents. Considering the aforesaid circumstances, we are inclined to suspend the sentence.

8. Accordingly, the Criminal Miscellaneous Petition is allowed and the substantive sentence of imprisonment imposed on the petitioner/A1 alone is suspended, subject to the following conditions:



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i. The petitioner is directed to be enlarged on bail on executing 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 Special Court for Exclusive Trial of Cases under POCSO Act, Thoothukudi.

ii. The petitioner shall appear before the trial Court at 10.30 a.m., on the first working day of every English calendar month, until further orders.

iii. On any particular date, if the petitioner is not able to appear, leave is granted to the petitioner to file an application under Section 317 of Cr.P.C. and appear before the Court concerned on any other day, as determined by the Court concerned, in lieu of the day on which he would absent.

sd/-
22/09/2021

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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 COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE,
MUTHAIAHPURAM POLICE STATION, THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to Mr.D.ANBARASU, Advocate SR.No.6476.

ORDER

IN

CRL MP(MD) No.6431 of 2021
in CRL.A.(MD)NO.365 of 2021
Date :22/09/2021