



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

Tuesday, the Twenty First day of December Two Thousand and
Twenty One
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6188 of 2021
IN
CRL A(MD)No.358 of 2021

VIJAYARAGAVAN

... APPELLANT/SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
TIRUNELVELI,
TIRUNELVELI DISTRICT.
CR.NO.08/2017

... 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 passed against the petitioner by the Learned Sessions Judge (POCSO Special Court, Tirunelveli in Spl.S.C.No.19/2019 dated 12/02/2021 pending disposal of the above Criminal Appeal.

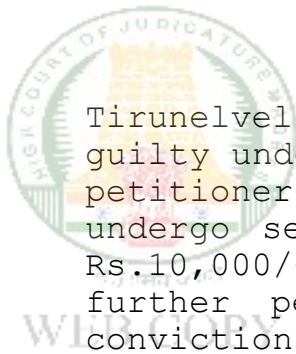
PRAYER IN CRL A(MD)No.358/2021:

To call for the records and set aside the Judgment and conviction passed by the Learned Sessions Judge (POCSO Special Court, Tirunelveli in Spl.S.C.No.19 of 2019 dated 12.02.2021 and acquit the appellant herein.

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.P.VEERAPANDI, Advocate for the Appellant and of Mr.K.SANJAY GANDHI, Government Advocate(crl.side) on behalf of the Respondent, While admitting the CRL.A, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the Sessions Judge, (POCSO Special Court,) Tirunelveli, in Spl.S.C.No.19 of 2019, dated 12.02.2021, till the disposal of the appeal.

2. The case against the petitioner is that on 04.05.2017, at about 7.30 pm., the petitioner misbehaved with a 4 ½ years old female child. A case in Crime No.8 of 2017 was registered against the petitioner and the same was taken on file as Spl.S.C.No.19 of 2019 on the file of the Special Court for POCSO Act Cases,



Tirunelveli. After trial, the Special Court found the petitioner guilty under Section 10 of POCSO Act. The trial Court convicted the petitioner under Section 10 of POCSO Act and sentenced him to undergo seven years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default, to undergo a further period of one year simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in CrI.A.(MD)No.358 of 2021 and 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 petitioner is 60 years old and he is in custody for the past 11 months. The trial was conducted during the Lockdown period and the witnesses could not be cross examined by the petitioner counsel and only since the witnesses were not cross examined, the petitioner was convicted by the trial Court and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the offence is serious in nature and against the Society. The petitioner misbehaved with a child in a public place, in the presence of eye witnesses. The prosecution has examined 13 witnesses and marked 13 documents and has proved the case beyond all reasonable doubt and prayed the petition to be dismissed.

5.It is seen that the judgment was pronounced on 12.02.2021. The petitioner is in custody for the past 11 months. Considering the age of the petitioner and considering the period of incarceration, this Court is inclined to suspend the sentence with certain conditions.

6.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal 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 Sessions Judge, (POCSO Special Court,) Tirunelveli;

(ii)the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of any valid identity proof to ensure their identity ;

(iii)the petitioner shall appear before the Trial Court, daily at 10.30 a.m., until the disposal of the appeal.

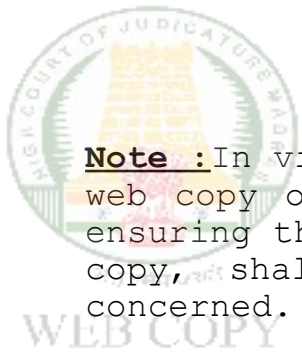
sd/-

21/12/2021

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21/12/2021

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
POCSO SPECIAL COURT, TIRUNELVELI.
 - 2 THE SUPERINTENDENT
CENTRAL JAIL, PALAYAMKOTTAI.
 - 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
TIRUNELVELI,
TIRUNELVELI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1. C.C. to Mr.P.VEERAPANDI, Advocate SR.No.9690.

ORDER

IN

CRL MP (MD) No.6188 of 2021
IN
CRL A (MD) No.358 of 2021
Date :21/12/2021

SA/VR/SAR.2/21.12.2021/3P/5C