



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

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

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6825 of 2021
in
Crl.A.(MD)No.379 of 2021

MURUGAN

... APPELLANT/ ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
AWPS THALLAKULAM POLICE STATION,
MADURAI DISTRICT.
(CRIME NO.22 OF 2015)

... 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 by the Principal Special Court for POSCO Cases, Madurai in Spl S.C. No.31 of 2015 dated 24.08.2021 and enlarge the Appellant on bail pending disposal of the above said Criminal Appeal.

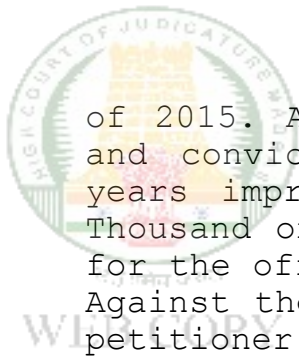
Prayer in Crl.A.(MD)No.379 of 2021:

To call for the records and set aside the sentence and conviction imposed by the learned Principal Special Court for POCSO Cases, Madurai in Spl S.C. No.31 of 2015 dated 24.08.2021.

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.S.M.A.JINNAH, 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 learned Sessions Judge, Principal Special Court for Exclusive Trial of cases under POCSO Act, Madurai, in Spl.S.C.No.31 of 2015 dated 24.08.2021, till the disposal of the appeal.

2.The case against the petitioner is that on 01.06.2015 at about 01.30 p.m., the petitioner committed aggravated sexual assault on the victim girl. A case was registered in Crime No.22 of 2015 against the petitioner. The case was taken on file as Spl.S.C.No.31



of 2015. After trial, the trial Court found the petitioner guilty and convicted the petitioner and sentenced him to undergo seven years imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo one year rigorous imprisonment for the offence under Section 9(m) of POCSO Act and 10 of POCSO Act. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.379 of 2021 before this Court and along with the appeal, he filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that, the case of the prosecution is that the petitioner called the victim girl, who was fetching water from the water tap in front of the petitioner's house and abused her. From the evidence, it is clear that there is no necessity for the victim girl to fetch water from the water tap in front of the petitioner's house, as there is a water tap in front of the house of the victim girl. The evidence of doctor, P.W.7 is not supporting the case of prosecution. The occurrence is said to have taken place in the petitioner's house. No witness was examined on the side of the prosecution. The petitioner is having two female children. There is no motive between the petitioner and the family of the victim regarding the trust property. There is political enmity between the uncle of the victim and the petitioner. The political motive was admitted by the witnesses and the witnesses are relatives of the victim and they are all interested witnesses. The author of the complaint was not examined. There are much more points for arguments in the appeal. The petitioner was in custody for three months at the time of appeal and he enjoyed bail throughout the trial and the petitioner is in custody on 24.08.2021 and prayed the sentence to be suspended till the disposal of the appeal.

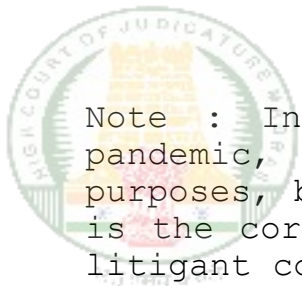
4.On the side of the prosecution, it is stated that the age of the victim is eight years. The age of the accused is 40 years. The judgment is a recent one. There is no possibility for the parents to make her child a weapon to take vengeance against some one. The offence is serious in nature and against the Society and prayed the petition to be dismissed.

5.Considering the age of the victim and considering the fact that the judgment is a recent one and considering the seriousness of the offence, which is against the society, this Court is not inclined to grant suspension of sentence to the petitioner at present. This petition is dismissed.

sd/-
30/11/2021

/ 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.

WEB COPY

- TO
- 1 THE PRINCIPAL SPECIAL JUDGE FOR POSCO CASES,
MADURAI.
 - 2 THE INSPECTOR OF POLICE
AWPS THALLAKULAM POLICE STATION,
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.6825 of 2021 in
Crl.A.(MD)No.379 of 2021

Date :30/11/2021

MRN

MS/VR/SAR-2/16.12.2021/3P.5C