



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

Friday, the Twenty Second day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7672 of 2020
IN
CRL A(MD) No.377 of 2020

RAJAPPA

... PETITIONER/APELLANT/
SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
PAPANASAM ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT.
CRIME NO.1 OF 2017

... 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 and conviction made in S.S.C.NO.13 of 2019 on the file of the Learned Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur dated 04/03/2020 pending disposal of the instant Criminal Appeal.

PRAYER IN CRL A(MD) No.377 of 2020:

Pleased to call for the order dated 04.03.2020 made in S.S.C.No.13 of 2019 on the file of the Learned Special Court for Exclusive Trial of Cases Under POCSO Act, Thanjavur and set aside the same by way of allowing the Appeal.

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.A.P.MUTHU PANDIAN, Advocate for the petitioner and of Mr.S.CHANDRASEKAR, Additional Public Prosecutor on behalf of the Respondent, while admitting the Criminal Appeal, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur in S.S.C.No.13 of 2019 dated 04.03.2020, till the disposal of the appeal.

2.The case against the petitioner is that on 09.01.2017, the accused grabbed the hand of the victim and pinched the vaginal area of her right. A case was registered against the petitioner in Crime



No.1 of 2017 under Sections 8 and 12 of POCSO Act and the same was taken on file as S.S.C.No.13 of 2019. The learned Judge found the petitioner guilty under Sections 8 and 12 of POCSO Act and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.2,000/- (Rupees Two Thousand only) each in default to undergo one year simple imprisonment under Section 8 of POCSO Act and the petitioner was sentenced to undergo three years rigorous imprisonment and to pay a fine of Rs.1,000/- (Rupees One Thousand only) in default to undergo three months simple imprisonment under Section 8 of POCSO Act. Against the conviction and sentence imposed by the trial Court, the petitioner has filed an appeal in Crl.A.(MD) No.377 of 2020. Along with appeal, the petitioner filed this petition for suspension of sentence till the disposal of the appeal.

3.On the side of the petitioner, it is stated that there is a delay of one day in lodging the complaint. P.W.8, the doctor has deposed that there is no external injuries. There is no assault. The evidence of Medical Officer is not useful to the case of prosecution. The grandfather of the victim was not examined, since he is expired. P.W.2 is the mother of the victim and she is interested witness. The accused is in custody for the past one year and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the prosecution, it is stated that the accused is 50 years old. The victim is aged about only 11 years. The intention of the accused is clearly revealed from the evidence of P.W.1 and P.W.2. The prosecution has examined 10 witnesses and marked 16 documents and 3 material objects. The accident register of the victim was marked as Ex.P9. The final opinion of the Medical Officer was marked as Ex.P10. The prosecution has proved the case beyond reasonable doubts and the trial Court has rightly convicted the petitioner and prayed the petition to be dismissed.

5.It is seen that though the offence is against the Society and serious in nature, considering the fact that the petitioner is in custody for the past one year and considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6.Accordingly, the substantive sentence of imprisonment against the petitioner alone is suspended 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) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judge, Special Court for Exclusive Trial of Cases under



(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 their valid identity card to ensure their identity.

WEB COPY

(iii) the petitioner shall appear before the Trial Court daily twice at 10.30 a.m., until further orders.

sd/-
22/01/2021

/ 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 SPECIAL JUDGE FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, THANJAVUR.

2.THE INSPECTOR OF POLICE,
PAPANASAM ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT.

3.THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.A.P.MUTHUPANDIAN, Advocate (SR-410[I] dated 22/01/2021)

ORDER
IN
CRL MP(MD) No.7672 of 2020
IN
CRL A(MD) No.377 of 2020
Date :22/01/2021

MRN
TK/PN/SAR.1/25.01.2021/3P/6C