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

Thursday, the Ninth day of December Two Thousand and Twenty One
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7412 of 2021

IN

CRL A(MD) No.396 of 2021

MURUGAN

... APPELLANT/SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DINDIGUL,
DINDIGUL DISTRICT.
(IN CRIME NO. 13 OF 2018)

... 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 against the petitioner and release the petitioner on bail pending disposal of the main Crl A before this court against the Judgment of Sessions Judge, Fast track Mahila Court, Dindigul in Special S.C.No.49 of 2018 dated 05.05.2021.

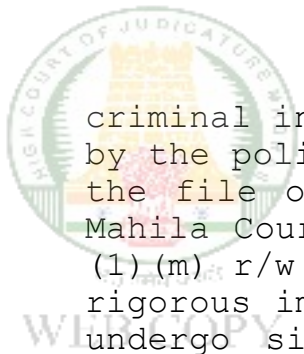
PRAYER IN CRL A(MD) No.396 of 2021:

To Call for the entire records connected with the judgment rendered by the Hon'ble Sessions Judge, Fast track Mahila Court, Dindigul in Special S.C.No.49 of 2018 dated 05.05.2021 and set aside the same and consequently acquit the appellant and pass such further or other order.

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.PRAKASH R, Advocate for the petitioner and of MR.R.M.ANBUNITHI, GOVERNMENT ADVOCATE on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence imposed against the petitioner and to release the petitioner on bail pending disposal of the main Criminal Appeal before this Court against the judgment of the Fast Track Mahila Court, Dindigul, in Special S.C.No.49 of 2018, dated 05.05.2021.

2.The case against the petitioner is that on 02.09.2018 at about 5.30 hours, the petitioner committed aggravated penetrative sexual assault against the victim girl and threatened the girl with



criminal intimidation. A case in Crime No.13 of 2018 was registered by the police and the case was taken as Special S.C.No.49 of 2018 on the file of the Fast Track Mahila Court, Dindigul. The Fast Track Mahila Court, Dindigul, found the petitioner guilty under Section 5 (1)(m) r/w 6 of POCSO Act and sentenced him to undergo ten years of rigorous imprisonment and to pay a fine of Rs.5,000/- in default to undergo six months simple imprisonment and found the petitioner guilty under Section 506(i) IPC and sentenced him to undergo one year rigorous imprisonment under Section 506(i) IPC. Against the conviction and sentence, the petitioner filed a appeal in Crl.A.No.396 of 2021. Along with the appeal, the petitioner filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that Exhibit P.1 is a false complainant. The first complaint alleged have to be given by the mother of the victim was suppressed by the police. Occurrence took place on 02.09.2018, but, the complaint was lodged only on 03.09.2018. FIR was registered on 09.09.2018. This delay was not explained by the prosecution. PW.5 and PW.6 were hostile. PW.7 to PW.11 are hearsay witnesses. Medical evidence is not supporting the case of prosecution. The gate keeper was not examined. Nobody identified the witnesses. All witnesses are interested witnesses and are the relatives to the victim girl. There is a money dispute between the petitioner and the father of the victim. The petitioner is in custody for the past seven months and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the victim is an 11 years old child doing VII Standard. Accused is 53 years old. Offence is serious in nature. The prosecution has examined 18 witnesses and marked 11 documents and the case is proved by medical evidence. The prosecution has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.The alleged occurrence took place in an unmanned railway gate. There is no possibility of examining the gate keeper. The age of the victim at the time occurrence is 12 years old.

6.Considering the serious nature of the offence and the age of the victim, this Court is not inclined to suspend the sentence at the present stage. Hence, this Criminal Miscellaneous Petition is dismissed.

sd/-

09/12/2021

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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.

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TO

- 1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
DINDIGUL.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
DINDIGUL,
DINDIGUL 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.7412 of 2021

IN CRL A(MD) No.396 of 2021

Date :09/12/2021

RS/PN/SAR4(16.12.2021) 3P-5C