



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

Tuesday, the Fifth day of January Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.6635 of 2020
IN
CRL A(MD) No.354 of 2020

VIJAYA BABU

... PETITIONER/APELLANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PALANI TALUK,
DINDIGUL DISTRICT.
CRIME NO.4 OF 2018

... 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 imposed on the petitioner vide Judgment in Special Sessions Case No.62 of 2018 on the file of Fast Track/Mahila Judge, Dindigul, dated 29.10.2020 pending disposal of the above Criminal Appeal.

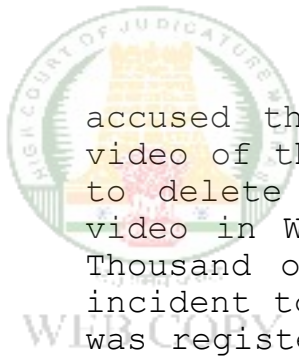
PRAYER IN CRL A(MD) No.354 of 2020:

Pleased to call for the records relating to the judgment made in Special Sessions Case No.62 of 2018 on the file of Fast Track/ Mahila Judge, Dindigul dated 29.10.2020 and set aside the same.

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.T.ANTONY ARULRAJ, Advocate for the petitioner and of Mr.KR.BHARATHI KANNAN, Government Advocate on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Fast Track Mahila Judge, Dindigul in Spl.S.C.No.62 of 2018 dated 29.10.2020, till the disposal of the appeal.

2.The case against the petitioner is that on 15.01.2018, the victim girl came to the place of occurrence during pongal holidays and the petitioner promised to marry her, brought the victim girl to his house and they had sexual intercourse and subsequently the



accused threatened the victim girl by stating that he has taken video of the said occurrence and demanded money from the victim girl to delete the said video, failing which he will upload the said video in Whatsapp. The victim girl paid Rs.80,000/- (Rupees Eighty Thousand only) to the petitioner. On 23.04.2018, she narrated the incident to the defacto complainant and a case in Crime No.4 of 2018 was registered under Section 3 r/w. 4 of POCSO Act and the same was taken on file as Spl. S.C.No.62 of 2018 before the Fast Track Mahila Judge, Dindigul. The Fast Track Mahila Judge has found the petitioner guilty under Section 3(a) r/w. 4 of POCSO Act and sentenced him to undergo ten years rigorous imprisonment and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) in default to undergo six months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has preferred an appeal in Crl.A.(MD)No.354 of 2020. Along with the appeal, he has filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that there is a delay in lodging the complaint. The victim is aged about 15 years. There was love affair between the petitioner and the victim girl. Due to caste difference, the grandfather of the victim lodged a false complaint. There is no evidence for demand of money. There is no evidence to prove that any videograph was taken by the accused. There is no photos or videos available in the cell phone of the petitioner. The evidence of the Medical Officer is not supporting the case of prosecution. There are contradictions between the statement of the victim given before the Medical Officer and her evidence given before the Court. The 164 statement was recorded 17 days after the date of occurrence. The petitioner is in custody for the past 60 days. The petitioner is ready to abide any conditions imposed by this Court and prayed the sentence imposed upon the petitioner to be suspended.

4.On the side of the respondent, it is stated that the prosecution has examined 21 witnesses and 18 documents and 5 materials objects. The accident register copies were marked as Exs.P9 and P10. The 164 statement was marked as Ex.P1. The prosecution has proved the case beyond all reasonable doubts. The evidence of P.W.1 supports the case of prosecution and prayed the petition to be dismissed.

5.The learned counsel for the petitioner has raised substantial points in the memorandum of appeal, which require a detailed consideration by this Court. Considering the facts and circumstances of the case and also considering the submissions of the learned counsel for the petitioner and considering the fact that the Criminal Appeal 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 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) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Mahila Fast Track Judge, Dindigul.

(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.

(iii) the petitioner shall appear before the Trial Court on the first working day of every English Calendar month at 10.30 a.m., until the disposal of the appeal or until further orders.

sd/-
05/01/2021

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/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1. THE FAST TRACK /MAHILA JUDGE,
DINDIGUL.

2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PALANI TALUK, DINDIGUL DISTRICT.

3. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to M/S.T.ANTONY ARULRAJ Advocate SR.No.32

ORDER IN
CRL MP(MD) No.6635 of 2020
IN
CRL A(MD) No.354 of 2020
Date :05/01/2021

MRN

<https://hccservices.gov.in/Services/1.2021/3P/6C>