



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

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

PRESENT

The Hon`ble Mr.Justice K.KALYANASUNDARAM
and
The Hon`ble Mr.Justice G.ILANGO VAN

CRL MP(MD) No.7963 of 2020
IN CRL A(MD) No.391 of 2020

SIVANPERUMAL

... APPELLANT/ ACCUSED NO.1

- Vs -

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AMBASAMUTHIRAM,
TIRUNELVELI DISTRICT.
CRIME NO.18 OF 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 imposed against petitioner in order in Spl.C.NO.85 of 2019 on the file of the Hon'ble Special POCSO Sessions Judge, Tirunelveli dated 21.10.2020 and release the petitioner on bail till the disposal of the appeal.

Prayer in CRL A(MD) No.391 of 2020:

To call for the entire records connected to the judgment in Spl.S.C.No.85 of 2019 on the file of the Hon'ble Special POCSO Sessions Judge, Tirunelveli dated 21.10.2020 and set aside the conviction and sentence imposed against the appellant.

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.R.ALAGUMANI, Advocate for the petitioner and of Mr.R.ANANDARAJ, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

(Order of the Court was made by **G.ILANGO VAN, J**)

This Criminal Miscellaneous Petition is filed to suspend the sentence passed by the Special POCSO Sessions Judge, Tirunelveli, in Special Case No.85 of 2019, dated 21.10.2020, and enlarge the petitioner/Appellant on bail, pending disposal of the criminal appeal.



2.The case of the prosecution is that on 15.02.2017, the accused had sexual intercourse with the de-facto complainant, by giving false assurance as he would marry her and subsequently, on 10.07.2017, when the de-facto complainant went to the house of the accused, she was scolded by the accused as well as his family members and refused to marry her.

3.To prove the charges, the prosecution examined 20 witnesses and marked 17 documents. On the side of the accused, no witness was examined and no document was marked.

4.The trial court, after considering the materials available on records, came to the conclusion that the charge framed against the accused under section 6 of the Protection of Child from Sexual Offences Act, 2012 has been proved beyond all reasonable doubt and convicted and sentenced him to undergo life imprisonment with a fine of Rs.50,000/-, default to undergo one year simple imprisonment and acquitted the accused from other charges levelled against him under sections 417, 294(b), 323, 355 and 506(i) IPC and section 4 of Tamil Nadu Prohibition of Harassment of Woman Act, 2002. Challenging the conviction and sentence of the trial court, the present appeal has been preferred by the petitioner and along with the appeal, seeking suspension of sentence, this criminal miscellaneous petition is filed.

5.At the time of argument, it is contended on behalf of the petitioner that during the course of trial, the de-facto complainant has not supported the case of the prosecution and stated that the petitioner is her husband and they are living jointly and even subsequent to the occurrence due to joint living, another child was also born to them.

6.The said fact is fairly conceded by the learned Additional Public Prosecutor appearing for the respondent/State.

7.Considering the subsequent development and the allegations made against the petitioner, it may not be possible for the criminal appeal to be taken up for hearing at the earliest point of time, we are inclined to grant suspension of sentence to the petitioner and enlarge him on bail with certain conditions.

8.Accordingly, this petition is allowed and the substantive sentence of imprisonment alone is suspended pending disposal of the appeal and the petitioner is directed to be enlarged on bail on condition that he shall execute a bond for a sum of Rs.10,000/- **(Rupees Ten Thousand only)** with two sureties each for a like sum to the satisfaction of the the Special POCSO Sessions Judge,



Tirunelveli and on further condition that the petitioner shall appear before the said court on the first working day of every month at 10.30 am pending appeal.

sd/-
29/01/2021

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/ /2021

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

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 POCSO SESSIONS JUDGE,
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AMBASAMUTHIRAM,
TIRUNELVELI DISTRICT.
- 3 THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP (MD) No.7963 of 2020
IN
CRL A (MD) No.391 of 2020
Date :29/01/2021

DSS
MS/VR/SAR-2/04.02.2021/3P.5C