



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

Wednesday, the Tenth day of February Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.7862 of 2020
IN
CRL A(MD) No.388 of 2020

PANDIYAN

... PETITIONER/ APPELLANT/
SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ANNAVASAL POLICE STATION,
PUDUKOTTAI DISTRICT.
CRIME NO.84/2018

... RESPONDENT/ RESPONDENT/
COMPLAINANT

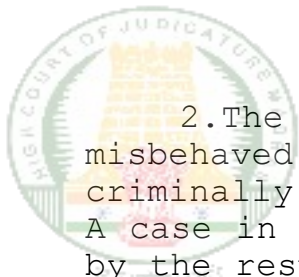
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed by the judgment dated 20/02/2020 passed in Special S.C.NO.01 of 2019 on the file of the Learned Principal District and Sessions Judge, Pudukottai and enlarge the petitioner on bail, pending disposal of the Criminal Appeal.

Prayer in CRL A(MD) No.388 of 2020:

To call for the records and set aside the judgment dated 20.02.2020 passed in Special S.C.No.01 of 2019 on the file of the Principal District and Sessions Judge, Pudukottai and acquit the Appellant/ Sole Accused of the charge.

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.E.SOMASUNDARAM, Advocate for the petitioner and of Mrs.S.BHARATHI, Government Advocate 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 Principal District and Sessions Judge, Pudukottai in Special S.C.No.01 of 2019, dated 20.02.2020, till the disposal of the appeal.



2.The case against the petitioner is that the petitioner misbehaved with a 7 years old female child and threatened her and criminally intimidated her not to reveal the occurrence to anybody. A case in Crime No.84 of 2018 was registered against the petitioner by the respondent under Section 5(m) r/w 6 of POCSO Act and Section 506(ii) of IPC. The learned Principal District and Sessions Judge, Pudukottai, has taken up the case on file in Special S.C.No.01 of 2019. The trial Court found the petitioner guilty under Section 7 r/w Section 9(m) of POCSO Act and sentenced him to undergo rigorous imprisonment for a period of six years and to pay a fine of Rs.5,000/- (Rupees Five Thousand only), in default to undergo a further period of six months simple imprisonment under Section 10 of POCSO Act. The petitioner was found not guilty for the offence under Section 506(ii) of IPC. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in Crl.A.(MD)No.388 of 2020 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 grandfather of the victim is the complainant. P.W.3, is the mother of the victim. P.W.4, is the father of the victim, who turned hostile. P.W.11 to P.W.13 are official witnesses. P.W.11 has deposed that there were no symptoms of assault or injury in the private parts of the victim. Since there is a civil dispute pending between the parties, a false case was filed. The victim was not produced before the learned Magistrate within 24 hours for recording the statement under Section 164 of Cr.P.C., there was a delay of 30 days in recording the 164 of Cr.P.C., statement. It is further stated that the delay was not explained and the learned Magistrate was not examined. P.W.1 has deposed that the Accident Register-Ex.P.6 was prepared by the police and that the police obtained his signature in the said document. The medical report is not supporting the case of the prosecution 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 prosecution has examined 12 witnesses (P.W.1 to P.W.12) and marked 9 documents (Ex.P1 to P.9). Medical certificate of the victim-P.W.2 was marked as Ex.P7. Medical certificate of the accused was marked as Ex.P.8. The petitioner committed offence against woman and children. If the sentence is suspended, there is a chance for the petitioner to escape from the clutches of law and prayed the petition to be dismissed .

5.Considering the facts and circumstances of the case and on considering the submissions of the learned counsel for the petitioner and considering the fact that there are some arguable points for the petitioner in the appeal and on considering the fact that the Criminal Appeal is not likely to be taken up for final hearing in the near future and also considering the fact that the



the view that the petitioner herein are entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal 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 Principal District and Sessions Judge, Pudukottai;

(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 any valid identity proof 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.

sd/-

10/02/2021

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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 PRINCIPAL DISTRICT AND SESSIONS JUDGE, PUDUKOTTAI.
- 2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.
- 3 THE INSPECTOR OF POLICE
ANNAVASAL POLICE STATION, PUDUKOTTAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.7862 of 2020
IN CRL A(MD) No.388 of 2020
Date :10/02/2021

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MS/VR/SAR-4/12.02.2021/3P.5C

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