



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

Friday, the Twelfth day of November Two Thousand and Twenty One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD) No.9567 of 2021
in
Crl.A.(MD) No.471 of 2021

ELANGO VAN

... PETITIONER/ APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
THENI POLICE STATION, THENI DISTRICT.
IN CRIME NO.164/2020

... 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 execution of sentence in Spl.S.C.No.14 of 2020 dated 01/10/2021 on the file of the Learned Session Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) No.471 of 2021:

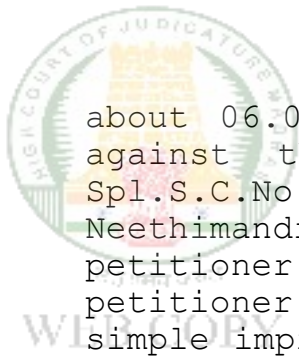
To admit this appeal of file and call for the records from the Learned Trial Court and set aside the judgment dated 01.10.2021 passed in Spl.S.C.No.14 of 2020 on the file of the Learned Session Judge, Mahalir Neethimandram, Fast Track Mahila Court, Theni, Theni district by allowing this Appeal.

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.R.SHANKAR GANESH, Advocate for the petitioner and of MR.K.SANJAY GANDHI, Government Advocate for the respondent, While admitting the CRL A., the court made the following order:-

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondent.

2. This Criminal Miscellaneous Petition is filed to suspend the sentence imposed on the petitioner passed by the Special Judge, Mahalir Neethimandram, Fast Tack Court, Theni, vide judgment, dated 01.10.2021, in Spl.S.C.No.14 of 2020.

3.The case against the petitioner is that he committed sexual services some not in/cr services/minor child, aged about 11 years, on 04.03.2021, at



about 06.00 pm.. A case in Crime No.164 of 2020 was registered against the petitioner and the case was taken on file in Spl.S.C.No.14 of 2020 on the file of the Special Judge, Mahalir Neethimandram, Fast Tack Court, Theni, The Special Judge found the petitioner guilty under Section 12 of the POCSO Act, 2012. The petitioner was convicted and was sentenced to undergo one year simple imprisonment and to pay a fine of Rs.3,000/-, in default, to undergo further three months simple imprisonment.

4. As against the said conviction and sentence, the petitioner has preferred an Appeal in Crl.A.(MD)No.471 of 2021. Along with the Appeal, he has filed the present application for suspension of sentence.

5. On the side of the petitioner, it is stated that already the trial Court granted suspension of sentence and the fine amount was already deposited by the petitioner. It is further stated that the petitioner is in-charge of the house, in which, the complainant is residing as a tenant, when the petitioner questioned the arrival of a boy in the rental house, a false case was foisted against him. No independent witness was examined. There are other arguable points for consideration in the appeal and prayed that the sentence to be suspended.

6. On the side of the prosecution, it is stated that prosecution has examined 10 witnesses and marked 7 documents. The age of the victim is only 11 years. The prosecution has proved the case beyond all reasonable doubts. If the sentence is suspended, there is a chance for the petitioner to commit similar offences again and prayed the petition to be dismissed.

7. The The age of the petitioner is more than 50 years. Considering the age of the petitioner and considering that there are some arguable points for consideration in the appeal and that the trial Court suspended the sentence, this Court is inclined to grant suspension of sentence till the disposal of the Appeal, on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Special Judge, Mahalir Neethimandram, Fast Tack Court, Theni, and on further condition that:

(i) the sureties shall affix their photographs and Left Thumb Impression along with their signature in the surety bond and the learned Trial Judge may obtain a copy of their any valid identity proof to ensure their identity;

(ii) (ii)the petitioner shall appear before

<https://hcservices.ecourts.gov.in/hcservices/> Civil Court on the **first working day of every**



English Calendar month at 10.30 a.m., until the disposal of the appeal.

sd/-
12/11/2021

/ TRUE COPY /

WEB 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 SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, FAST TRACK MAHILA COURT,
THENI.

2 THE INSPECTOR OF POLICE
THENI POLICE STATION, THENI DISTRICT.

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

+1. C.C. to Mr.R.SHANKAR GANESH, Advocate SR.No.8049.

ORDER
IN
Crl.M.P.(MD) No.9567 of 2021
in
Crl.A.(MD) No.471 of 2021
Date :12/11/2021

LS
MK/PN/SAR.I/16.11.2021/3P/5C