



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

Tuesday, the Thirtieth day of November Two Thousand and Twenty One

PRESENT

The Hon'ble Mrs.Justice R.THARANI

Crl.M.P.(MD)No.10049 of 2021
in
Crl.A.(MD)No.488 of 2021

VINOTHKUMAR

... PETITIONER/APPELLANT/ACCUSED NO.3

Vs

THE STATE REP. BY,
THE INSPECTOR OF POLICE,
RAJAPALAYAM ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
(CRIME NO. 8 OF 2020).

... 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 enlarge the petitioner on bail by suspending the sentence imposed by the Special Court for Exclusive Trial of cases under POCSO Act 2012, Virudhunagar at Srivilliputhur in Spl.S.C.No. 52 of 2020, dated. 11.11.2021, pending the disposal of the main Criminal Appeal.

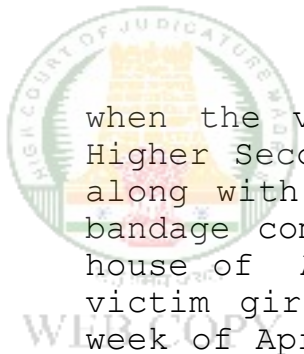
PRAYER IN CRL A(MD) No.488 of 2021 :

Pleased to call for the records in the judgment of the Special Court for Exclusive Trial of Cases under Protection of Children from the Sexual Offences Act, 2012, Virudhunagar District at Srivilliputtur in Spl.S.C.No.52 of 2020 by judgment dated 11.11.2021 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 M/S.RAMASAMY.S, Advocate for the petitioner and of Mrs.K.ASHA, Government Advocate (Criminal Side) on behalf of the Respondent, the court made the following order:-

This petition has been filed to suspend the sentence imposed by the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Srivilliputhur, in Spl.S.C.No.52 of 2020 dated 11.11.2021, till the disposal of the appeal.

2.The case against the petitioner/A3 is that on 13.11.2007,
<https://hcservices.ecourts.gov.in/hcservices/>



when the victim girl was studying seventh standard in Government Higher Secondary School, Chathrapatti village, due to covid 19, she along with one Jeyalakshmi has managed to go to work in Ramasubbu bandage company. A5 is a neighbor of victim. A2 used to visit the house of A5, who is his relative. A2 developed friendship with the victim girl during the month of November 2019. During the second week of April, A2 called the victim child and told her that he fell in love with her and A2 committed sexual assault. A case was registered in Crime No.8 of 2020 against the petitioner and others. The case was taken on file as Spl.S.C.No.52 of 2020. After trial, the trial Court found the petitioner/A3 guilty and convicted the petitioner/A3 and sentenced him to undergo five years imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only) in default to undergo six months imprisonment for the offence under Section 8 r/w. 7 of POCSO Act. Against the conviction and sentence imposed by the trial Court, the petitioner/A3 has filed a criminal appeal in Crl.A.(MD)No.488 of 2021 before this Court 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 allegation against the petitioner is that he touched the breast of the victim but the evidence is that the petitioner touched the chest of the victim. The specific part of the body was not proved by the prosecution. There is no nexus between the occurrence and the petitioner. The petitioner was in custody for three months before the commencement of the trial and is in custody from the date of judgment (i.e., on 11.11.2021) 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 petitioner is 21 years old at the time of occurrence. The victim girl is 12 years old. The prosecution has examined 13 witnesses and marked 14 documents and proved the case beyond all reasonable doubts. The offence is serious in nature and is against the society and prayed the petition to be dismissed.

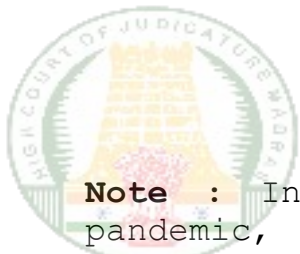
5.It is seen that the age of victim is 12 years and 6 months at the time of occurrence. The offence is serious in nature. The judgment is a recent one. Considering the age of the victim and considering the fact that the judgment is a recent one and considering the seriousness of the offence, which is against the society, this Court is not inclined to grant suspension of sentence to the petitioner at present. This petition is dismissed.

sd/-
30/11/2021

/ TRUE 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,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT 2012,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
RAJAPALAYAM ALL WOMEN POLICE STATION,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
Crl.MP(MD)No.10049 of 2021
in
Crl.A.(MD)No.488 of 2021
Date :30/11/2021

mrn
USK/VR/SAR-IV/ (07.12.2021) 3P-5C