



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

Tuesday, the Seventh day of December Two Thousand and Twenty One
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.10376 of 2021
IN
CRL A(MD)No.282 of 2021

B.SENTHILKUMAR

... PETITIONER/APPELLANT/
ACCUSED (SOLE)

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
THARUVAIKULAM POLICE STATION,
THOOTHUKUDI.
CR.NO.85 OF 2017.

... RESPONDENT/RESPONDENT/
COMPLAINANT

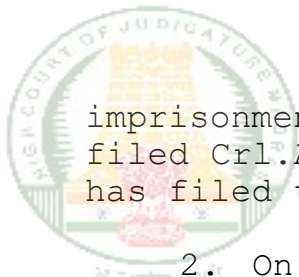
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Suspend the sentence passed by the POCSO Exclusive Court, Tuticorin in Special SC.No.204/2019 through a Judgment dated 26.04.2021 till the disposal of the Appeal.

PRAYER IN CRL A(MD)No.282/2021:

To set-aside the Judgment passed in Special.S.C.No.204/2019 on the file of POCSO Exclusive Court, Tuticorin, Tuticorin District dated 26.04.2021 and thereby Acquit the above accused from the charges.

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.KA.RAAMAKRISHNAN, Advocate for the petitioner and of Mr.R.M.ANBUNITHI, Additional Public Prosecutor on behalf of the Respondent, the court made the following order:-

The case against the petitioner is that on 18.06.2017 at 7.30 p.m the petitioner misbehaved with a 7 years old female child and threatened her with dire consequences. The case in Crime No.85 of 2017 was registered against the petitioner under Section 506(i) IPC and Section 9(m) r/w 10 of POCSO Act. The case was taken on file as Spl.S.C.No.204 of 2019. The Special Court found the petitioner guilty under Section 9(m) r/w 10 of POCSO Act and sentenced the petitioner to undergo 5 years rigorous imprisonment and to pay a fine of Rs.5000/- in default to undergo 6 months rigorous imprisonment and convicted him under Section 506(i) IPC and sentenced him to undergo 1 year rigorous imprisonment and to pay a fine of Rs.1,000/- in default to undergo 1 month rigorous



imprisonment. Against the conviction and sentence, the petitioner filed CrI.A(MD)No.282 of 2021. Along with the appeal, the petitioner has filed this petition for suspension of sentence.

2. On the side of the petitioner, it is stated that in the evidence of P.W.1 it was stated that her classmate one Baskar S/o Senthilkumar entered into the house at the time of occurrence.. Baskar was not cited as a witness. The evidence of P.W.2 is that P.W.1 was present at the time of recording statement under Section 164 Cr.P.C by the Judicial Officer which means that P.W.1 was tutored by P.W.2 and there are much more points for argument in the appeal and prayed the sentence to be suspended.

3. On the side of the prosecution, it is stated that the offence is against the victim girl, who was 7 years old and was studying 3rd Standard and the petitioner is aged about 45 years and the son of the petitioner is a classmate of the victim girl. The prosecution has examined 13 witnesses and marked 12 documents and proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

4. Considering the serious nature of the offence and considering the age of the victim and the judgment of the trial court is a recent one, this Court is not inclined to suspend the sentence at the present. Hence, this petition is dismissed.

sd/-

07/12/2021

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/ /2021

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

TO

- 1 THE JUDGE
POCSO EXCLUSIVE COURT,
TUTICORIN, TUTICORIN DISTRICT.
- 2 THE SUPERINTENDENT
CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
THARUVAIKULAM POLICE STATION, THOOTHUKUDI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.10376 of 2021

IN CRL A(MD)No.282 of 2021

Date : 07/12/2021

SA/PN/SAR.3/13.12.2021/2P/5C

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