



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

Wednesday, the Twenty Second day of December Two Thousand and Twenty One

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PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.11352 of 2021

IN

CRL A(MD) No.390 of 2021

BALASUBRAMANI @ SUBRAMANI

... PETITIONER/APPELLANT

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

JAIHINDPURAM POLICE STATION(LAW AND ORDER).

MADURAI DISTRICT.

CRIME NO.920/2015

... RESPONDENT/RESPONDENT

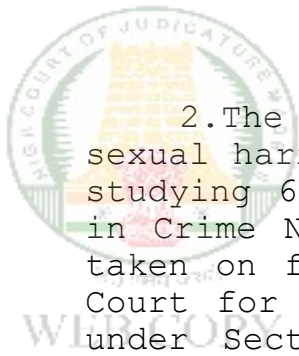
Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner in Spl.SC.No.17/2017 on the file of the Learned Sessions court for Exclusively Trial of Cases under POCSO Act, Madurai vide judgement dt.9/10/2020 and enlarge him on bail pending disposal of the appeal.

PRAYER IN CRL A(MD) No.390 of 2021:

To call for the records and set aside the order of conviction and sentence passed in Spl.S.C.No.17 of 2017 on the file of the Learned Sessions court for Exclusively Trial of Cases under POCSO Act, Madurai vide judgement dated 09/10/2020 and allow this appeal and acquit the Appellant/Accused from the charge leveled against him and thus render justice.

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.KATHIRESAN.K, Advocate for the petitioner and of MR.K.SANJAY GANDHI, GOVERNMENT ADVOCATE on behalf of the Respondent the court made the following order:-

This petition has been filed to suspend the sentence imposed against the petitioner in Spl.S.C.No.17 of 2017, dated 09.10.2020, on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, pending disposal of the Appeal.



2.The case against the petitioner is that the petitioner caused sexual harrasment to the victim, who is aged about 13 years and was studying 6th standard. A case was registered against the petitioner in Crime No.920 of 2015 by the respondent police and the same was taken on file as Spl.S.C.No.17 of 2017 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, and under Section 506(i) of IPC vide judgment dated 09.10.2020. The details of the punishments are as follows:

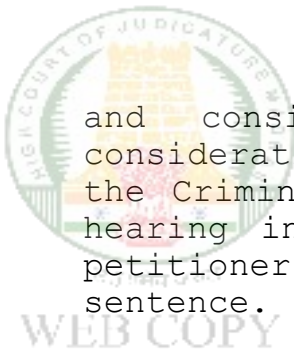
Accused	Under Section	Punishment
Sole Accused	5(1) r/w. 6 of POCSO Act	10 years rigorous imprisonment and Rs.5,000/- fine, in default of fine, three months simple imprisonment
	506(i) of IPC	2 years rigorous imprisonment

As against the said conviction and sentence, the petitioner/sole accused has preferred an appeal in Crl.A.(MD)No.390 of 2021. Along with the appeal, he has filed a petition in Crl.M.P.(MD)No.7166 of 2021 for suspension of sentence and the petition was dismissed. Again he has filed the present application for suspension of sentence pending disposal of the said appeal.

3.On the side of the petitioner, it is stated that the occurrence is said to have taken place on 05.09.2015, but the complaint was lodged only on 06.09.2015. There is a delay in lodging the FIR. There is no external injury as per the medical evidence. Only due to political enmity, a false case was foisted against the petitioner. The petitioner's brother wife contested local body election and she won the election against the former Deputy Mayor. D.W.1 speaks about the motive. The occurrence said to have taken place in V.V.Krishnan Road. The toilet was run by the member in women self help group. The occurrence place is thickly populated area. The petitioner is in custody for the past one year and before the trial, he was in custody for three months and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the age of the victim is 13 years and the petitioner is aged about 50 years, at the time of occurrence. The age of the victim is 13 years. The victim was using pay and use toilet. The petitioner who was incharge of toilet, threatened her to have intercourse with her and criminally intimated her. This offence is against the society. The body and mind of the victim will be affected. The prosecution has examined 12 witnesses and marked 21 documents and 7 material objects. The case was proved by the prosecution beyond all reasonable doubts. The trial Court rightly convicted the petitioner and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody for the past 13 months. Considering the above facts and circumstances of the case



and considering that there are some arguable points for consideration in the main appeal and also considering the fact that the Criminal Revision Case is not likely to be taken up for final hearing in the near future, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

6. Accordingly, the substantive sentence of imprisonment alone is suspended 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 Sessions Judge, Special Court for Exclusively trial of cases under POCSO Act, Madurai.

(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 their valid identity card to ensure their identity.

(iii) the petitioner shall appear before the respondent Police daily at 10.30 a.m., until further orders.

sd/-

22/12/2021

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23/12/2021

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

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVELY TRIAL OF CASES UNDER POCSO ACT,
MADURAI.
- 2 THE SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE
JAIHINDPURAM POLICE STATION (LAW AND ORDER).
MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN

CRL MP(MD) No.11352 of 2021

Date : 22/12/2021