



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

Thursday, the Twenty Third day of December Two Thousand and Twenty
One

PRESENT

The Hon`ble Mrs.Justice R.THARANI

Crl.M.P.(MD)No.11812 of 2021
in
Crl.A.(MD) No.496 of 2021

SARAVANAN ... PETITIONER/ PETITIONER / APPELLANT

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUPPATHUR,
SIVAGANGAI DISTRICT.
CRIME NO.11 OF 2015.

... RESPONDENT/ 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 Appellant/Sole Accused in Spl.SC.No.32 of 2016 on the file of the Court of the Special Court for Exclusive Trial of Cases under the POCSO Act 2012, Sivagangai, dated on 21.10.2021 and enlarge me on bail till the disposal of the Appeal pending on the file of this Hon`ble Court.

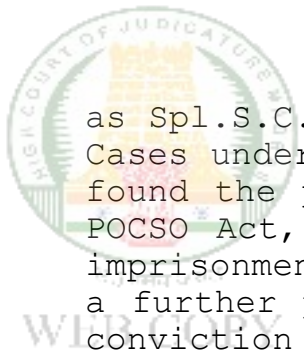
Prayer in Crl.A.(MD) No.496 of 2021:

To call for the records relating to the judgment passed in Spl.SC.No.32 of 2016 on the file of the Court of the Special Court for Exclusive Trial of Cases under the POCSO Act 2012, Sivagangai, dated on 21.10.2021 and set aside the same and acquit the Appellant/Accused for the charges leveled against the petitioner.

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.P.AJU TAGORE, Advocate for the petitioner and of MR.K.SANJAI GANDHI, Government Advocate (Crl. Side) 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.32 of 2016, on the file of the Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai, dated 21.10.2021 and to enlarge the petitioner on bail till the disposal of the Appeal.

2.The case against the petitioner is that he misbehaved with a 13 years old student. A case in Crime No. 11 of 2015 was
<https://hosevisitors.in/hosevisitors> the respondent police and the case was taken on file

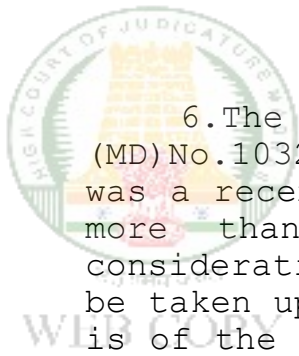


as Spl.S.C.No.32 of 2016 by the Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai,. The Special Court has found the petitioner guilty under Section 9(f) r/w. Section 10 of POCSO Act, 2012 and sentenced him to undergo five years rigorous imprisonment and to pay a fine of Rs.5,000/-, in default, to undergo a further period of three months simple imprisonment. Against the conviction and sentence, the petitioner filed an Appeal in Crl.A. (MD)No.496 of 2021. Along with the appeal, 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 14.12.2015, but, the complaint was lodged only on 21.12.2015, with a delay of 6 days. The Child Welfare Committee has examined the victim and the victim's mother, but, that statement was not produced before the trial Court and that statement was not taken as the complaint. The complaint was given only by the Head Master and not by the mother of the victim. There is contradiction in the evidence of P.W.3 and P.W.5 regarding the Teacher, who asked the victim to keep the notebooks in the class Room. The teacher, who was alleged to have been on leave at the time of occurrence, viz., Sevugarathinam was not examined as a witness. As per the rough sketch and the observation mahazer, the playground is situated in between the class room and the staff room. There is no evidence on the side of the prosecution that the accused crossed the playground. There is only a wooden partition available between the class room VII-A and VII-B, but, the students and the teacher in the other class room were not examined as witnesses. There is no direct evidence and there is no injury.

4.On the side of the petitioner, it is further stated that there is a motive between the petitioner and the victim. The victim girl has written a love letter to a boy, viz., Ramu and the love letter was handed over by the petitioner to the Head Master, who obtain an undertaking letter from the victim and her parents. The victim has admitted in her evidence that she has written a letter and that she has given a statement before the Head Master and her parents signed before the Head Master and only with this motive a false case was foisted against the petitioner. There are much more points for consideration in the main Appeal. The petitioner is in custody for the past 40 days and prayed the sentence to be suspended.

5.On the side of the prosecution, it is stated that the position of the petitioner /accused is a Teacher. The victim is a student studying in 7th standard. The petitioner misbehaved with the victim. The evidence of the victim is sufficient to prove the guilty of the petitioner. This is the second application seeking for suspension of sentence. The first petition, in Crl.M.P.(MD)No.10324 of 2021, was dismissed by this Court, on 01.12.2021. The prosecution has examined 17 witnesses and marked 20 documents. The prosecution has proved the case beyond all reasonable doubts and prayed the



6.The previous peittion filed by the petitioner, in Crl.M.P. (MD)No.10324 of 2021, was dismissed on the ground that the judgment was a recent one. It is seen that the petitioner is in custody for more than two months. There are some arguable points for consideration in the appeal and the Criminal Appeal is not likely to be taken up for final hearing in the near future. Hence, this Court is of the view that the petitioner herein is entitled to the relief of suspension of sentence.

7.Accordingly, the substantive sentence of imprisonment alone is suspended till the disposal of the appeal and the petitioner 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) each with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under the POCSO Act, 2012, Sivagangai;

(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 respondent police daily at 10.30 a.m.,** until the disposal of the appeal.

sd/-

23/12/2021

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/ /2021

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

TO

1 THE SPECIAL COURT FOR EXCLUSIVE
TRIAL CASES UNDER THE POCSO ACT 2012, SIVAGANGAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUPPATHUR,
SIVAGANGAI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1. C.C. to MR.P.AJU TAGORE, Advocate SR.No.9731.

ORDER

IN

Crl.M.P. (MD)No.11812 of 2021
in

Crl.A. (MD) No.496 of 2021

Date :23/12/2021

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