



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

Wednesday, the Nineteenth day of January Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.543 of 2022
IN
CRL A(MD) No.499 of 2021

ANANTHARAMALINGA KUMAR

... PETITIONER/APELLANT/
ACCUSED NO.2

Vs

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

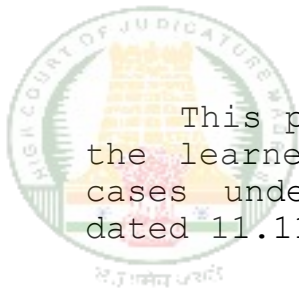
... RESPONDENT/RESPONDENT/
COMPLAINANT

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to suspend the sentence imposed on the petitioner vide Judgment made in Spl S.C.No. 52 of 2020 by the Learned Sessions Judge, The Special Court for Exclusive Trial of cases under protection of children from Sexual offences Act 2012, Virudhunagar District at Srivilliputtur, dated 11.11.2021, pending disposal of the above Criminal Appeal.

Prayer in CRL A(MD) . 499/ 2021 :

To call for the records pertaining to Special Sessions Case No.52/2020, on the file of the Learned Sessions Judge, The Special Court for Exclusive Trial of Cases under Protection of Children from Sexual Offences Act, 2012, Virudhunagar District at Srivilliputtur, dated 11.11.2021, by allowing this Criminal Appeal and to acquit the Appellant/Accused No.2.

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. THIRUNAVUKKARASU.M., Advocate for the petitioner and of MR.R.M.ANBUNITHI, ADDITIONAL PUBLIC PROSECUTOR 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 is that on 13.11.2007, 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 from 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. The case was taken on file as Spl.S.C.No.52 of 2020. After trial, the trial Court found the petitioner/A2 guilty and convicted the petitioner/A2 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/A2 has filed a criminal appeal in CrI.A.(MD)No.499 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 there was love affair between the petitioner/A2 and the victim girl. The victim girl has written a love letter to the petitioner and the love letter was marked as Ex.R1. The victim girl has admitted the love letter in her evidence. All the witnesses are relatives of the petitioner. Though it is mentioned that there was friendship between the petitioner and the victim girl from the year 2019, the complaint was lodged only on 06.06.2020. The complainant - mother of the victim girl turned hostile. Section 7 of the Act is not proved against A2. Only based on the statement recorded under Section 164 of Cr.P.C., the trial Court has convicted the accused. There are much more arguable points for consideration in the appeal. Before the commencement of trial the petitioner was in custody for three months and after the date of judgment the petitioner is in custody. Totally the petitioner is in custody for a period of six months and prayed the petitioner to be released on bail.

4.On the side of the prosecution, it is stated that the appellant is 21 years old at the time of occurrence. The victim girl is 12 years old. Merely admitting a love letter is not a sufficient reason for permitting the petitioner to commit sexual abuse and that a love affair is different from sexual harassment. 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



5.It is seen that at the time of the occurrence the age of the victim is 12 years and six months. The offence against the accused persons are serious in nature. The judgment was pronounced on 11.11.2021. The earlier petition filed by the petitioner was dismissed only on 30.11.2021. There is no change of circumstances. Considering the age of the victim and considering the seriousness of offence, this Court is not inclined to suspend the sentence at the present.

6.Hence, this criminal miscellaneous petition is dismissed.

sd/-

19/01/2022

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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 PROTECTION
OF CHILDREN FROM SEXUAL OFFENCES ACT 2012,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTTUR.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

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

+1 CC to M/s.M.THIRUNAVUKKARASU, Advocate (SR-314[I] dated
20/01/2022)

ORDER IN
CRL MP(MD) No.543 of 2022
IN
CRL A(MD) No.499 of 2021
Date :19/01/2022