



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

Monday, the Thirty First day of January Two Thousand and Twenty Two
PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.940 of 2022

in

CRL A(MD) No.15 of 2022

RENGARAJ

... PETITIONER/APPELLANT/ACCUSED

Vs

STATE REP.BY

THE INSPECTOR OF POLICE

ALL WOMEN POLICE STATION,

SIVAGANGAI.

IN CRIME NO.16/2015

... 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 / Accused in Spl S.C No. 5 of 2016 on the file of the court of Spl Court for excl Trial of cases under POCSO Act, 2012 Sivagangai dt. 21.10.2021 and enlarge him on bail till the disposal of Appeal pending on the file of this Hon'ble Court.

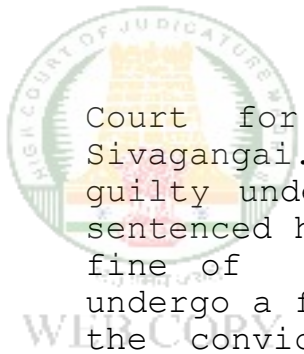
PRAYER IN CRL A(MD) No.15 of 2022:

To call for the records relating to the judgment passed in Special S.C.No.5/2016 on the file of the Court of the Special Court for exclusive Trial of cases under POCSO Act, 2012, Sivagangai dated on 21.10.2021 and set aside the same and acquit the Appellant/Accused from the charges leveled against him.

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.GOPALAKRISHNA LAKSHMANA RAJA, Senior Counsel for MR.AJU TAGORE.P, 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 against the petitioner, in Spl.S.C.No.5 of 2016, dated 21.10.2021, on the file of the Special Court for exclusive Trial of Cases under POCSO Act, 2012, Sivagangai, till the disposal of the appeal.

2.The case against the petitioner is that he has committed sexual assault against a second standard student. A case in Crime No.16 of 2015 was registered against the petitioner and the same was taken on file as Spl.S.C.No.5 of 2016, on the file of the Special



Court for exclusive Trial of Cases under POCSO Act, 2012, Sivagangai. After the trial, the Special Judge found the petitioner guilty under Section 5(f), (l), (m) r/w 6 of POCSO Act, 2012 and sentenced him to undergo 10 years rigorous imprisonment and to pay a fine of Rs.10,000/- (Rupees Ten Thousand only), in default, to undergo a further period of six months simple imprisonment. Against the conviction and sentence imposed by the trial Court, the petitioner has filed a criminal appeal in CrI.A.(MD)No.15 of 2022 and along with the appeal, he has filed this petition for suspension of sentence.

3.On the side of the petitioner, it is stated that he is in custody for the past 102 days. P.W.1, who is the mother of the victim child, has admitted that she administered poison to the victim child and she was admitted in the hospital. The father of the child has taken the custody of the child and since this petitioner has helped the father to get the custody of the child, the mother has foisted a false complaint against the petitioner. The date of alleged occurrence was August 16th, 17th and 18th. P.W.2 has deposed that the School was on leave on August 15th & 16th as the dates are Saturday and Sunday and the victim child was absent on 17th & 18th and there is no chance for the occurrence to have taken place on that dates. P.W.1 has admitted that she administered poison to the victim child. The occurrence place is a open place. The time of occurrence was day time and there is no chance for any such incident. The medical evidence is also not supporting the case of the prosecution and prayed the sentence to be suspended.

4.On the side of the prosecution, it is stated that the age of the victim was 6 years and three months. Accused is a teacher. The victim herself has given clear and convincing evidence against the accused. The medical evidence reveals that the vaginal parts of the victim was reddish and was affected. The judgment is a recent one and the prosecution has examined 14 witnesses, marked 19 documents and has proved the case beyond all reasonable doubts and prayed the petition to be dismissed.

5.Considering the facts and circumstances of the case and also considering the fact that the offence against the petitioner is serious in nature and the judgment is a recent one, this Court is not inclined to suspend the sentence in the present stage. Hence, this petition is dismissed.

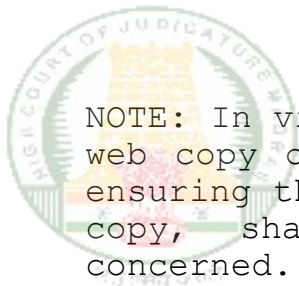
sd/-

31/01/2022

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/ /2022

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.

WEB COPY

TO

- 1 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
SIVAGANGAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL MP(MD) No.940 of 2022
IN
CRL A(MD) No.15 of 2022
Date :31/01/2022

RS/VR/SAR.2(08.02.2022) 3P-4C