



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

Friday, the Twenty Eighth day of January Two Thousand and Twenty Two

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL MP(MD) No.4588 of 2021
IN
CRL A(MD) No.278 of 2021

ANBARASAN

... APPELLANT/ACCUSED-1

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKKOTTAI.
CR NO.6/2018

... 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 by Judgment dated 18/01/2021 passed in Spl.S.C.No. 25 of 2018 on the file of the Learned Mahila Court at Pudukkottai and enlarge the petitioner on bail pending disposal of the above Crl.A.No.278 of 2021.

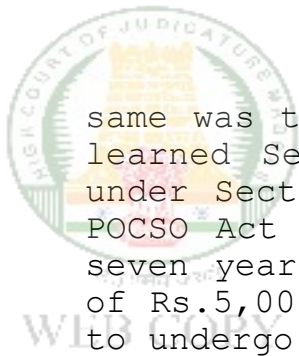
PRAYER IN CRL A(MD) No.278 of 2021:

To call for the records and to set aside the order of conviction passed in Judgement in Spl.S.C.No.25/2018, dated 18.01.2021, by the Hon'ble Mahila Court at Pudukkottai.

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.PAUL BRITTO KUMAR, 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 by the learned Sessions Judge, Mahila Court, Pudukkottai, in Spl.S.C.No.25 of 2018 dated 18.01.2021, till the disposal of the appeal.

2.The allegation against the petitioner is that he misbehaved with the school children. A case in Crime No.6 of 2018 was registered against the petitioner under Sections 9(f) r/w. 10, 9(1) of W.P. 10 of 2018 (r/w. 10 POC SO Act and Section 506(i) of IPC and the

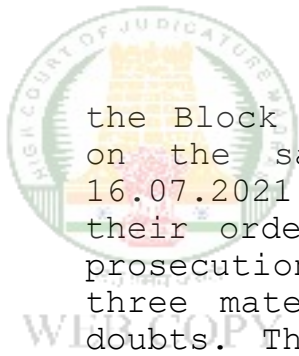


same was taken on file as Spl.S.C.No.25 of 2018 on the file of the learned Sessions Judge, Pudukkottai. The petitioner was convicted under Sections 9(1) r/w. 10 (3 counts), 9(m) r/w. 10 (6 counts) of POCSO Act and Section 506(i) of IPC and sentenced him to undergo seven years rigorous imprisonment for each count and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) for each count in default to undergo a period of two months simple imprisonment for each count under Section 9(1) r/w. 10 (3 counts) of POCSO Act and sentenced him to undergo seven years rigorous imprisonment for each count and to pay a fine of Rs.5,000/- (Rupees Five Thousand only) for each count, in default to undergo a period of two months simple imprisonment for each count under Section 9(m) r/w. 10 (6 counts) of POCSO Act and sentenced him to undergo two years rigorous imprisonment under Section 506(i) of IPC. Against the conviction and sentence, the petitioner has preferred an appeal before this Court in Crl.A.(MD) No.278 of 2021. Along with the appeal, the petitioner has filed the present petition 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 in the month of May. The complaint was lodged only in the month of June. The husband of the defacto complainant demanded Rs.2,000/- (Rupees Two Thousand only) for his political party and the petitioner refused to give the same. Only with that motive, a false case was foisted against the petitioner. The request in the FIR is only for the transfer of the petitioner, since the husband of the defacto complainant has challenged the petitioner to transfer him to some other place. On 16.07.2018, the Child Helpline Authority enquired the petitioner and no action was taken against the petitioner. There is a delay in filing FIR. All the children mentioned in the case already completed their studies and were not available in the school at the time of complaint. The person by name Kalaiselvi was not examined as a witness. One Chellappan mentioned in the document was not examined as a witness. No opportunity was given to the petitioner to cross examine the witnesses. All the independent witness turned hostile. All the victim belong to the same community. Only two persons are mentioned as victims in the FIR. The petitioner is in custody for the past 2 ½ years. The petitioner was enjoying bail throughout the trial and prayed the sentence to be suspended till the disposal of the appeal.

4.On the side of the prosecution, it is stated that the allegation is serious in nature. The petitioner was working as the teacher. Due to the absence of the second accused, he was taking class for the 4th and 5th students. During the academic year, when the victim girls were studying there, he committed sexual assault on the victims and FIR came to be registered. The father of the victims initially complained before the Head Master, who is the second accused. Since no action was taken by the second accused, he has

<https://hcc.madras.gov.in/jsp/links/developmental.htm>



the Block Educational Officer to enquire into the complaint. Based on the said report, the petitioner came to be suspended on 16.07.2021. The old students of the school came forward to narrate their ordeal. The mother of the victim lodged the complaint. The prosecution has examined 25 witnesses and marked 23 documents and three material objects and proved the case beyond all reasonable doubts. The trial Court has rightly convicted the petitioner and prayed the petition to be dismissed.

5.It is seen that the petitioner is in custody for the past 2 ½ years. 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 Appeal 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 learned Sessions Judge, Mahila Court, Pudukkottai.

(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/-
28/01/2022

/ TRUE COPY /

31/01/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1 THE SESSIONS JUDGE,
MAHILA COURT,
PUDUKKOTTAI.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKKOTTAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

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

+1 CC to M/s.PAUL BAITTO KUMAR, Advocate (SR-488[I] dated
31/01/2022)

ORDER

IN

CRL MP(MD) No.4588 of 2021

IN

CRL A(MD) No.278 of 2021

Date :28/01/2022

RS/JM/SAR.2(31.01.2022) 4P-6C